

(2025) 10 DEL CK 1298

In the Delhi High Court

Case No : Writ Petition (C) No. 11958 Of 2019

Dharmendra Kumar (Deceased) Thr. His Legal Heirs

APPELLANT

Vs

Union Of India And Ors.

RESPONDENT

Date of Decision : 16-10-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 10 DEL CK 1298

Hon'ble Judges : Navin Chawla, J; Madhu Jain, J

Bench : Division Bench

Advocate : Ravi Prakash Gupta, Gigi C George, Sunil Kumar

Final Decision : Disposed Of

Judgement

Navin Chawla, J

1. This petition has been filed by the petitioner, challenging the Order dated 31.07.2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 842 of 2009, titled Lala Ram & Ors. v. Union of India & Ors., dismissing the said O.A. filed by the petitioner herein. Also Impugned is an Order dated 05.03.2013 passed by the Chief Commissioner of Income Tax (CCA) UP (West) Region, Kanpur publishing a list of employees, excluding the petitioner, regularized.

2. The petitioner, along with four others, including Mr. Lala Ram and Mr. Kanhaiya Lal, had filed the above mentioned O.A., claiming regularization as Group-D employees. They challenged the Order dated 30.01.2009 passed by the respondents, whereby 88 casual workers were regularized by the respondents, however, the petitioner had not been considered for the same. The learned Tribunal vide its Impugned Order had dismissed the OA.

3. It is pertinent to note here that though the petitioner herein did not challenge the said Order passed by the learned Tribunal, Mr. Lala Ram and Mr. Kanhaiya Lal challenged the same before this Court by way of a Writ Petition under Article 226

of the Constitution of India, being W.P.(C) 13013/2009, titled Lala Ram & Anr. vs. Union of India & Ors.. The same was allowed by a Division Bench of this Court vide its Judgment dated 10.09.2010, directing the respondents to regularize the services of Mr. Lala Ram and Mr. Kanhaiya Lal with effect from 30.01.2009, that is, the date when services of 88 daily wagers had been regularized. All consequential benefits were also to be granted to the said employees.

4. The petitioner, relying upon the aforesaid Judgment of this Court, thereafter filed another O.A. before the learned Tribunal, being O.A. No. 3533/2014, titled Sh. Dharmender Kumar vs. Union of India & Ors.. The learned Tribunal, however, dismissed the same vide its Order dated 18.04.2016, on the ground that the application was barred by the principles of res judicata.

5. Aggrieved thereby, the petitioner challenged the same by way of a writ petition before this Court, being W.P.(C) No. 7054/2016 titled Dharmendra Kumar vs. Union of India & Ors.. The same was disposed of by this Court vide its Judgment dated 31.05.2017, inter alia observing as under:

"13. On the question whether the bar of res judicata would apply, we are in agreement with the Tribunal. Once an issue has been tried and decided on merits and the decision has attained finality, the same issue cannot be raised in subsequent suits/proceedings in view of the principle of res judicata. The matter directly and substantially in issue in a previous suit/proceedings, upon being decided on merits, cannot become the subject-matter of a second suit/proceedings.

14. However, the question would arise whether the petitioner is remediless and has completely forgone and lost his right to claim regularisation. The petitioner submits that both Lala Ram (S. No. 88) and Kanhaiya Lal (S. No. 89) were junior to him. Though we do not accept their regularisation would confer a new or fresh cause of action, so as to obliterate the effect of the judgment dated 31.07.2009 in OA No. 842/2009, we would observe and hold that the petitioner is at liberty to question and challenge the order dated 31.07.2009 dismissing OA No. 842/2009. If any such Writ Petition is filed, the same would be decided in accordance with law keeping in mind the constraints faced by the petitioner, who is uneducated and has limited access to courts of law. Perhaps because of wrong legal advice the petitioner had filed OA 3533/2014 rather than challenge order dated 31.07.2009 passed in OA No. 842/2009.

15. Thus, while we find no infirmity or flaw in the impugned order dated 18.04.2016, it is clarified that the petitioner would be at liberty to question and challenge the order dated 31.07.2009 passed in OA 842/2009 and if such Writ Petition is filed, the prayer made by the petitioner would be considered and examined in accordance with law."

6. Availing of the liberty granted by this Court, the petitioner has filed the present petition, inter alia praying for the following relief:

"(a) Issue any appropriate writ, order or direction quashing order dated 31.07.2009 of Ld. Principal Bench, Central Administrative Tribunal, New Delhi in OA No.842 of 2009 (Annexure P-3); and/or

(b) Issue any appropriate writ, order or direction quashing order dated 05.03.2013 passed by Chief Commissioner of Income Tax (CCA)(West) Region, Kanpur publishing list of regularized employees (Annexure P-5) ; and/or

(c) Issue any appropriate writ, order or direction commanding Chief Commissioner of Income Tax (CCA)(West) Region, Kanpur to regularize the services of employees w.e.f. April, 1993 with all consequential benefits; and/or

(g) pass any other order or orders which may deem fit and proper in the interest of justice."

7. We may herein also note that this Court, by its Order dated 31.10.2022, condoned the delay of the petitioner in filing the present petition, observing as under:

"1. This is an application on behalf of the petitioner seeking condonation of delay in filing the writ petition.

2. Learned counsel for the petitioner submits that by judgment dated 31.05.2017, a coordinate bench of this Court permitted the petitioner to file a writ petition impugning the original order dated 31.07.2009.

3. Perusal of the order dated 31.05.2017 shows that the petitioner had impugned a decision of the respondent, however had not impugned the original order dated 31.07.2009 whereby his original application was dismissed.

4. While upholding the said order, this Court permitted the petitioner to challenge the original order dismissing his original application.

5. This Court also noticed the constraints faced by the petitioner who is an uneducated person and has limited access to the Court.

6. Keeping in view the judgment dated 31.05.2017 whereby leave has been granted to impugn the said order. The delay in filing the writ petition is condoned."

8. The learned counsel for the petitioner submits that the case of the petitioner is similar to Mr. Lala Ram and Mr. Kanhaiya Lal and therefore, the petitioner is entitled to the same relief. He submits that the delay of the petitioner in filing the present petition challenging the Impugned Order passed by the learned Tribunal, has already been condoned and, therefore, there is no reason why similar relief be not extended to the petitioner.

9. The learned counsel for the respondent submits that the petitioner had been granted temporary status in compliance with the Order dated 04.09.1997 passed by the learned Tribunal in O.A. No. 1073/1997. Thereafter, he was considered for regularization, however, by the Order dated 30.01.2009, was not recommended

for the same as he was not fulfilling the eligibility conditions as per the Recruitment Rules; he having been registered with the Employment Exchange only on 18.12.1993. Placing reliance on the Judgment of the Supreme Court in Secretary, State of Karnataka & Ors. v. Umadevi & Ors., (2006) 4 SCC 1, he submits that the petitioner being a temporary employee cannot claim regularization as a matter of right, and that he was given the temporary status only pursuant to the judicial order.

10. We have considered the submissions made by the learned counsels for the parties.

11. Admittedly, two of the co-applicants with petitioner before the learned Tribunal, that is, Mr. Lala Ram and Mr. Kanhaiya Lal, have already been granted relief of regularization by this Court vide its Judgment dated 10.09.2010 passed in W.P.(C) 13013/2009, titled Lala Ram & Anr. vs. Union of India & Ors.. The delay of the petitioner in approaching this Court by way of the present petition seeking for similar relief, has also been condoned by this Court vide its Order dated 31.10.2022.

12. In W.P.(C) 13013/2009 titled Lala Ram & Anr. vs. Union of India & Ors. also, the name of the petitioners therein had been forwarded by the Employment Exchange to the respondents on 30.06.1994, as is the case with the petitioner.

13. We, therefore, find no reason why similar relief should not be granted to the petitioner herein.

14. Accordingly, the present petition is disposed of by directing the respondents to grant regularization to the petitioner with effect from 30.01.2009 along with all consequential benefits.

15. We are informed that unfortunately the petitioner, during the pendency of the present petition, has expired. The relief shall, therefore, be only in terms of money which shall be released by the respondents to the legal heirs of the petitioner within a period of twelve weeks from today.

16. The petition is disposed of in the above terms.