
(2017) 09 DEL CK 0325

In the Delhi High Court

Case No : Civil Writ Petition No. 426 Of 2008

Madan Singh & Ors

APPELLANT

Vs

UOI & Ors.

RESPONDENT

Date of Decision : 18-09-2017

Acts Referred:

Citation : (2017) 09 DEL CK 0325

Hon'ble Judges : Hima Kohli, J;Deepa Sharma, J

Bench : Division Bench

Advocate : H.P. Chakravorti, Madhulika Agarwal, J.K Singh

Final Decision : Dismissed

Judgement

1. The present petition has remained pending for the past nine years only for effecting service on the respondents, numbering 50. Out of the 50 respondents, respondent Nos. 5 to 50 are private respondents.
2. The petitioners, who were initially engaged as casual labourers in the Signal & Telecom Department of Construction/Division in Northern Railway, Delhi, on different dates from the year 1970 onwards, had raised an issue pertaining to their seniority, vis-a-vis the private respondents no. 5-50 before the Central Administrative Tribunal. The said petition was however dismissed by the Tribunal, vide judgment dated 03.11.2006.
3. Aggrieved by the said decision, the petitioners had filed the present petition, on which notice to show cause was issued on 18.01.2008. On the said date, appearance was entered on behalf of the respondent Nos. 1-4/Northern Railways and notice was issued to the remaining private respondents.
4. Thereafter, several opportunities were granted to the petitioners to serve the respondents but learned counsel failed to file the process fee. During

the pendency of the present petition, petitioner Nos. 2, 3 and 7 expired. Similarly, some private respondents have also expired. Later on, the petitioners had sought deletion of four of the private respondents. However, no steps were taken by the counsel for the petitioners to serve the remaining respondents.

5. On 08.01.2013, learned counsel for the petitioners had stated that counsel for respondent Nos. 1-4 had not furnished him the correct addresses of some of the respondents. However, it was noticed that the petitioners had not taken steps for effecting service at least on such of the respondents whose correct addresses were duly provided to the learned counsel for the petitioners on 22.11.2012.

6. On 12.03.2013, learned counsel for the petitioners had stated that he may be able to verify the fresh addresses of some of the respondents and had sought time to file the process fee. On 06.05.2013, respondent Nos. 31,33,34,36,37, 42 and 43 had appeared in person and stated that they did not wish

to file a counter affidavit in response to the petition. On the said date, the learned counsel for the petitioners stated that he intended to move an application for effecting substituted service on the remaining unserved respondents. However, no such application came to be filed till 19.12.2013.

7. On 19.12.2013, notice was issued on an application filed by the petitioner for effecting substituted service on the unserved respondents. Though, citations for publication of notice were duly issued, the petitioners failed to take any steps for effecting publication, as directed.

8. A perusal of the order sheets shows that after 28.07.2014, learned counsel for the petitioners had stopped appearing in the case. As a result, the writ petition was dismissed for non-prosecution on 16.12.2014. Subsequently, the petitioners filed an application for seeking restoration of the writ petition that was listed in court on 23.02.2015, but the said application also came to be dismissed as none had appeared for the petitioners.

9. In March 2015, the petitioners filed another application for seeking restoration of the application for restoration of the writ petition, on which, notice was issued on 24.03.2015. The said application was allowed on 14.07.2015 and on 18.08.2015, the restoration application filed by the petitioners was

allowed and the writ petition was restored to its original position. Thereafter, the petitioners were directed to take steps to serve the unserved

respondents. However, learned counsel did not take any steps to file the process fee for effecting service on them. Further, no steps have been taken

to file a rejoinder to the counter affidavit filed by the respondent Nos. 1 to 4 as long back as July 2009.

10. From 18.11.2015 till 02.05.2017, several opportunities were granted to the counsel for the petitioners to take steps to serve the unserved

respondents. On 18.08.2017, learned counsel for the respondent Nos. 1 to 4 had stated that they had already furnished the addresses of 18

respondents to the counsel for the petitioner on 31.07.2017. Despite that, no steps have been taken by the learned counsel for the petitioners to file the

process fee for effecting service on the said respondents. In fact, learned counsel has been fairly erratic in appearing in the present case. The order

sheets, particularly the order sheets dated 02.02.2011, 18.07.2011, 09.04.2012, 05.11.2012, 08.09.2014, 14.11.2014, 16.12.2014, 23.02.2015,

18.11.2015, 02.12.2015, 29.08.2016, 09.09.2016, 11.01.2017, 20.03.2017, 24.07.2017 and 18.08.2017 clearly show that counsel for the petitioners had

not even attended the court proceedings on these dates. He was not even present before the Registrar on 18.08.2017.

11. Today, learned counsel for the petitioners states that there is no need to serve the private respondents and their service should be dispensed with.

We are unable to accept the said submission for the reason that an issue of inter se seniority has been raised in the present petition, which necessitates

their presence.

12. The petitioners have been grossly negligent in attending the court proceedings and prosecuting the petition effectively. The fact that they did not

take any steps as per the direction issued on various dates including the dates 17.12.2008 , 09.04.2012 , 01.05.2012, 08.01.2013, 12.03.2013,

19.12.2013, 28.07.2014, 08.09.2014, 14.11.2014, 16.12.2014, 18.08.2015 and 25.07.2016, is ample proof of their negligence and casual behaviour. On

account of their inaction, the present petition that has been hanging fire for the past about one decade, only for effecting the service on the private

respondents. Quite obviously, the petitioners are not serious about pursuing the present petition.

13. In such circumstances, we have no option but to dismiss the present petition for non-prosecution. Ordered accordingly.

14. File be consigned to the record room.