

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 26th October, 2010

+ **W.P.(C) 12915/2004**

SATINDER KUMAR Petitioner
Through: Mr.Romil Pathak, Advocate

Versus

LT. GOVERNOR NCT OF DELHI & ANR.Respondents
Through: Mr.Manoj K.Rath, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J. (Oral)

CM No.13981/2010

1. Allowed.
2. Order dated 30.8.2010 dismissing the writ petition in default is recalled and the writ petition is restored for hearing.

WP(C)No.12915/2004

1. Heard learned counsel for the parties.
2. Vide impugned order dated 3.12.2003 the Original Application filed by the petitioner has been dismissed as barred by limitation.
3. Relevant facts are that the petitioner was appointed

as a Laboratory/O.T. technician on emergency basis and from time to time employment was extended, till considering the representations filed by the petitioner that having served for nearly 15 years his services may be regularized, services were regularized w.e.f. 31.3.1999 and the petitioner was happy to be a permanent and a regular employee and receive salary in the grade applicable.

4. After about 2 years thereof, the petitioner started making representations that he should be regularized w.e.f. the year 1983 i.e. when his services were first taken on emergency basis and started claiming back wages as also annual increments with a retrospective date. The claim was denied by the department and hence on 16.4.2002 he filed OA No.1043/2003 praying that directions be issued to the respondent to regularize his services w.e.f. the year 1983 and that he be granted ACP benefit by placing him in the next higher pay scale. The petitioner claimed arrears of salary.

5. The Tribunal held that the claim was barred by limitation for the reason the cause of action, if any, accrued when services were regularized w.e.f. 31.3.1999 but without any retrospective applicability. The Tribunal noted that the Original Application was filed on 16.5.2002 seeking regularization with retrospective effect i.e. 17.1.1983.

6. We concur with the reasoning of the Tribunal for the reason petitioner's services were regularized on 31.3.1999 and while so doing benefit of regularization from a retrospective date was denied. If the petitioner was aggrieved he ought to have approach the Tribunal within one year thereof.

7. That apart, the Constitutional Bench of the Supreme Court has, in the decision reported as 2006 (4) SCC 1 Secretary, State of Karnataka & Ors. Vs. Uma Devi, held that regularization benefit, of being placed in the scale of pay w.e.f.

the date an employee was inducted in service, on temporary or ad hoc basis, was impermissible.

8. Accordingly, we dismiss the writ petition but refrain from imposing any costs.

**(PRADEEP NANDRAJOG)
JUDGE**

**(SIDDHARTH MRIDUL)
JUDGE**

OCTOBER 26, 2010
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