(2015) 04 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

Case No : 863 of 2015

Adhishthata Mahodaya APPELLANT

Vs

Mahendra Jain S/O Lokuttam Das Jain RESPONDENT

Date of Decision : 08-04-2015

Acts Referred:

Citation : 2015 2 CPR 658

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Advocate : SAURABH MISHRA

Judgement

1. COUNSEL for the petitioner present. There is a delay of 375 days in filing this Revision Petition. The petitioner has moved an application for condonation of delay. The delay has been explained in para No. 3 of the application, which is reproduced here as under: - "3. The Petitioner is a Government medical college and comes within the ambit of State under Article 12 of the Constitution. It is funded by the State Government and discharges its duties in larger public interest. That after the impugned judgment dated 6.12.2013, the Department sought opinion of the Advocate to file Review Petition before this Hon''ble Commission. The concerned Advocate gave opinion to file Review Petition on 21.1.2014. The proposal to file Review Petition was sent to Law Department on 28.1.2014. Subsequently reminders were sent or the concerned officer was personally requesting the processing of the permission on 11.4.2014, 26.5.2014, 4.8.2014, 8.8.2014, 12.8.2014 and 22.10.2014. The concerned officer sent another reminder dated 2.1.2015 concerning pending proceedings before the District Forum regarding execution of the impugned order. The permission was granted on 10.2.2015. Immediately thereafter steps were taken to file the present petition. However, in doing so, an unintentional and bonafide delay of 472 days has occurred, which deserves to be condoned."

2. ON perusal of the above paragraph, it clearly goes to show that this is a matter between the Adhishthata Mahodaya, Mahatma Gandhi Smriti Chikitsa Mahavidyalaya and the Government. The Consumer Protection Act does not

make an exception to that. There is a huge delay in filing the Revision Petition. The expression "sufficient cause" cannot be erased from Section 5 of the Limitation Act by adopting the excessive liberal approach, which would defeat the purpose of section 5 of the Limitation Act and C.P. Act. There must be some cause which can be termed as sufficient cause for the purpose of delay condonation. Petitioner itself should have gone to the concerned authority and got permission immediately on the ground that this case would become barred by time. In case the State Government sits over the file for one year, the Commission cannot come to its rescue. There is a huge delay and this view neatly dovetails with the following authorities.

3. IN Anshul Aggarwal v. New Okhla Industrial Development Authority, 2011 4 CPJ 63 , held that "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras". This must be mentioned here that the authority in the case of Anshul Aggarwal v. New Okhla Industrial Development Authority pertains to the Consumer Protection Act. Similar view was taken in R.B. Ramlingam v. R. B. Bhavaneshwari, 2009 1 CutLT 188 , Ram Lal and Others v. Rewa Coalfields Ltd., 1962 AIR(SC) 361, Office of the Chief Post Master General and Ors. Vs. Living Media India Ltd. and Anr., 2012 1 SCR 1045 and Bikram Dass Vs. Financial Commissioner and others, 1977 AIR(SC) 2221.

4. MOREOVER , in a recent case the order was passed by Hon''ble Justice V. Gopala Gowda and Hon''ble Mr. Adarsh Goel in the case of M/s Jeevan Diesels Electricals Ltd. and Anr. Versus M/s Popular Vehicles and Services Ltd. in Special Leave to Appeal (C) No(s). 22240 -22241/2014 decided on 25.08.2014, where delay of 101 days was not condoned.

5. IN another case titled as Rakesh Kumar Namdev Versus Ashok Leyland Finance Company Ltd. in Special Leave to Appeal (C) No(s). 17252/2014 decided on 30.07.2014, wherein the Apex Court refused to condone the delay of 131 days.

6. THE Apex Court in the case "Sanjay Sidgonda Patl Vs. National Insurance Co. Ltd. and Ors.", decided by the Apex Court while dismissing the Special Leave to Appeal (Civil) No. 37183 of 2013, decided on 17.12.2013, upheld the order of this Commission wherein delay of 13 days was not condoned.

7. SIMILAR view was taken by the Apex Court while dismissing the Special Leave to Appeal (Civil) No. 33792 of 2013 in Chief Officer, Nagpur Housing and Area Development Board and Anr. V. Gopinath Kawadu Bhagat, decided on 19.11.2013, upholding the order of this Commission where 77 days delay was not condoned and again delay of 78 days was not condoned in the case reported

in M/s Ambadi Enterprises Ltd. Vs. Smt. Rajalakshmi Subramanian, in Special Leave to Appeal (Civil) No. 19896 of 2013 decided on 12.07.2013.

8. THE case is hopelessly barred by time, therefore, the same is dismissed.