
(2016) 03 JH CK 0124
In the Jharkhand High Court
Case No : L. P. A. No. 129 of 2013

Bharat Pandey

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 11-03-2016

Acts Referred:

Citation : (2017) 2 JLJR 70

Hon'ble Judges : Virender Singh, CJ. and Shree Chandrashekhar, J.

Bench : Division Bench

Advocate : Mr. Hardeo Pd. Singh and Mr. Ajeet Kumar Singh, Advocates, for the Appellant; Mr. Binod Singh, S.C. (L&C) Mr. Achinto Sen, J.C. to S.C. (L&C), for the State

Final Decision : Dismissed

Judgement

Virender Singh, C.J.—Appellants after dismissal of the writ petition being W.P.(S) No. 1106 of 2006 vide order dated 16.01.2013 handed down by the learned Single Judge whereby, the writ petition was dismissed primarily on the ground of delay and laches, filed the instant appeal in which there was initially a delay of 63 days for which the appellants did not bother to file any formal application. Not only that condonation of the said delay was not sought even in the memo of appeal, this was only one of the major defects pointed out by the Registry along with few other defects. Since the appellants had not removed the defects within the stipulated period, the instant appeal was placed before the Division Bench on 20.01.2014 when the appellants were directed to remove the defects within a period of two weeks, in default thereof the main appeal was to be dismissed without further reference to the Bench. Since the defects were not removed within the stipulated period as indicated in the order, the instant appeal was automatically dismissed, there being peremptory order in this regard. It is thereafter the appellants moved C.M.P. No. 145 of 2014 for recalling the order dated 20.01.2014 with a further prayer of restoration of the main appeal which application was allowed by the Court vide order dated 19.02.2016, when after

restoring the main appeal, it was taken up for consideration. In the interest of justice, another two weeks" time was granted to the appellants to remove the defects however, the needful has not been done till date. The appellants still have not bothered to move any formal application for condonation of delay which now turns out to be a huge delay, after restoration of the main appeal vide order dated 19.02.2016 which would turn out to be a delay of more than two years. Although, this ground alone is sufficient to dismiss the main appeal for want of prosecution, yet we have considered the case of the appellants on merits as well.

2. The appellants sought quashing of letter dated 11.09.1995 by which his services were terminated. The writ petition [W.P.(S) No. 1106 of 2006] was filed after 10 years of passing of the said order. Virtually, the appellants slept over the matter and came from slumber after 10 years and this ground alone was considered to be sufficient by the learned Writ Court for dismissing the writ petition. The Court observed that the writ petition is grossly barred by delay and laches. The engagement of the petitioner as Roller Khalasi was on workcharge basis and he was disengaged from 11.09.1995. We do not find any reason much less sufficient reason to have a contrary view from the view already taken by the learned Writ Court in dismissing the writ petition.

3. Resultantly, we decline to interfere with the impugned order of the learned Single Judge. The instant appeal thus, merits dismissal on all counts. Ordered accordingly.