

(2009) 03 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

Boiler And Services

APPELLANT

Vs

National Woolen And Finishers

RESPONDENT

Date of Decision : 05-03-2009

Acts Referred:

Citation : 2009 2 CPJ 396

Hon'ble Judges : P.D.SHENOY J.

Advocate : Randhir Singh Badhran

Judgement

1. HEARD the learned Counsel for petitioner. This revision petition is filed against judgment of order of State Commission dated 16.10.2008. The State Commission dismissed the appeal as time -barred. The learned Counsel for the appellant before the State Commission had moved an application for condonation of delay of 1365 days. However, State Commission observed that Registry had noted only a delay of 1270 days. Accordingly, the figure of the Registry was accepted.

2. IT was contended by the Counsel of the appellant before the State Commission that as the District Forum had passed an ex parte order and application was to be moved for setting aside ex parte order which was dismissed on 22.2.2005 for which appellant was informed by his Counsel on 28.3.2005 and subsequently due to abnormal delay caused by their Advocate who was not co - operative, the petitioner had to appoint a fresh Advocate who filed an appeal before the State Commission.

3. THE State Commission has analysed the application for condonation of delay at great length and found that petitioner has showed lethargic attitude in filing the appeal. It is further observed that explanations submitted by the petitioner were not at all satisfactory. It is not disputed that valuable right had accrued to the respondent which cannot be taken away without showing sufficient cause. It is well settled that appeal cannot be condoned on the ground of generosity. Therefore, the application for condonation of delay as well as appeal were dismissed as time -barred in limine with the State Commission. Further to query

raised, learned Counsel for petitioner submitted that they did not file a complaint against the Advocate who was responsible for causing delay before the concerned Bar Council. They have also not filed a consumer complaint against deficiency of service by the concerned Advocate.

4. HAVING heard the learned Counsel for petitioner, it is observed that there is no material irregularity or jurisdictional error in the order passed by the State Commission. Hence this revision petition is dismissed. There shall be no order as to costs. R.P. dismissed.