
(2010) 08 CHH CK 0035
In the Chhattisgarh High Court
Case No : Review Petition 54 of 2010

Dineshwar Prasad Chandrakar

APPELLANT

Vs

The State Government of Chhattisgarh

RESPONDENT

Date of Decision : 31-08-2010

Acts Referred:

Limitation Act, 1963 — Article 136, 5

Citation : (2010) 08 CHH CK 0035

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.

APPLICATION FOR REVIEWING/RECALLING OF ORDER DATED 12.09.2008
PASSED IN WRIT PETITION S. No. 3714/2008

1. The review Petitioner (writ Petitioner) seeks review of the order dated 12.09.2008 passed by this Court in W.P.(S) No. 3714/2008 on the ground that the other relief sought for by the Petitioner could not be pointed out by the counsel of the review Petitioner, therefore, the same could not be adjudicated. Thus, the present review petition. It is admitted case that the order sought to be reviewed was passed on the points raised by the Petitioner. The learned Counsel appearing for the Petitioner had given up other points and contested the only point of direction to deduct a sum of Rs. 4590/- as excess payment made to the Petitioner.

2. The order sought to be reviewed was passed on 12.09.2008. The Petitioner has thereafter noticed the alleged error after 572 days. The Petitioner ought to have approached this Court within a prescribed limitation period 30 days. The Petitioner filed review petition on 7.5.2010 with a delay of 572, alongwith I.A. No. 1, application for condonation of delay. The reasons stated therein is that the Petitioner could not understand the purport of the order passed by this Court and

acted as advised by the Counsel and continued to make representations, before the authorities.

3. The Petitioner came to know that one of the relief sought by him was not adjudicated, but the present review petition was filed after a delay of 572 days. Thus, petition is barred by limitation and the Petitioner has not shown any cause for condonation of delay.

4. The reasons stated in the petition cannot be held as sufficient reasons for condonation of delay. This review petition is hopelessly barred by time.

5. The Supreme Court in R.B. Ramlingam v. R.B. Bhvaneswari observed as under:

6. ...It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act, 1963 does not lay down any standard or objective test. The test of "sufficient cause" is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of limitation has left the concept of "sufficient cause" delightfully undefined, thereby leaving to the court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the court as such.

7. For the aforesaid reasons, we hold that in each and every case the court has to examine whether delay in filing the SLP stands properly explained. This is the basic test which needs to be applied. The true guide is whether the Petitioner has acted with reasonable diligence in the prosecution of his appeal/petition. In exercise of discretion under Article 136 to decide whether delay should be condoned or not, this Court is not bound by considerations applicable to an appellate court but nonetheless general principles which would weigh with the appellate court in determining sufficient cause can be the guiding factor/guideline. Therefore, it cannot be stated as a proposition per se that the prosecution of review proceedings would not be a sufficient cause at all for the purposes of Section 5 of the Limitation Act, 1963.

6. In view of the above, the review petition is dismissed on the ground of delay. No order asto costs.