

(2025) 01 DEL CK 1707

In the Delhi High Court

Case No : Civil Miscellaneous Petition No. 4146 Of 2024

General Manager, Northern Railways

APPELLANT

Vs

Mrs Harleen Kaur

RESPONDENT

Date of Decision : 20-01-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Limitation Act, 1963 — Section 5
Consumer Protection Act, 1986 — Section 15

Citation : (2025) 01 DEL CK 1707

Hon'ble Judges : Ravinder Dudeja, J

Bench : Single Bench

Advocate : Anushkaa Arora, Siddhant Rai Sethu, Salib Gurdeep Singh, Mayank Gupta, Kaustubh Singh

Final Decision : Dismissed

Judgement

Ravinder Dudeja, J.

1. Present petition has been filed under Article 227 of the Constitution of India, impugning the order dated 23.10.2024 in Revision Petition No. 1356/2024 passed by the National Consumer Disputes Redressal Commission [in short "National Commission"] and order dated 20.12.2023 in Appeal No. A/643/2023, passed by State Consumer Disputes Redressal Commission [in short "State Commission"].

2. Complainant Smt. Harleen Kaur filed a Consumer Complaint before the District Consumer Disputes Redressal Commission, Delhi against the petitioner. Her grievance in the complaint was that she was travelling in train against a reserved seat and that when the train was about to reach the destination station, an unidentified individual entered the coach and snatched her purse and jumped out of the moving train. Respondent claimed that TTE/Railway Staff carelessly left the door of the coach open, and thus, there was negligence and deficiency of service on the part of the petitioner, since it was the duty of the Railways to

provide safe, secure and comfortable journey as well as safety and security of luggage of passengers.

3. The complaint was disposed of vide order dated 24.07.2023 and the operative part of the order reads as under:-

"10. Accordingly, the complaint is allowed in favour of complainant and against the OPs, to pay jointly and/or severally a sum of Rs. 6,05,000/- apart from compensation/damages of Rs. 20,000/-" besides cost of Rs.5,000/- within 30 days from the date of receipt of this order.

In case OPs do not pay the amount within the aforementioned period of 30 days, then OPs will be liable to pay interest @ 6% pa on amount of Rs.6,05,000/- from the date of filing of complaint till realisation of amount."

4. Petitioner challenged the order by filing an appeal along with an application under Section 5 of the Limitation Act. The State Commission treated the said application as under Section 15 of the Consumer Protection Act, 1986, but vide order dated 20.12.2023, the application was dismissed along with the appeal.

5. Feeling aggrieved, petitioner filed revision before the National Forum. However, the revision has also been dismissed vide order dated 23.10.2024.

6. Learned counsel for the petitioner has submitted that since NCDRC and SCDRC failed to consider that the actual delay was only of 40 days and not 109 days. It is submitted that petitioner obtained certified copy only on 15.09.2023 and as per law, limitation is to be calculated from the date of receipt of certified copy. Thus computing, the period available to the petitioner for filing the appeal was till 15.11.2023. The appeal having been filed on 29.11.2023, the actual delay was only of 14 days. It is submitted that whatever delay occurred, was due to the fact that Railway Panel was scraped and the railway matters thereafter were being dealt by the Office of Union of India. Hence, procedural delay occurred in the appointment of the Advocate by Union of India.

7. It is further submitted that petitioner is Central Government body and therefore NCDRC and SCDRC should have considered that the delay occurred due to administrative approvals/delays. It is submitted that there was no mala-fide on the part of the Railways in filing the appeal before the State Commission. It is further submitted that the matter involves a substantial question of law, and therefore, both the Forums below should have been more liberal in condoning the delay and should not have adopted a hyper-technical approach.

8. Learned counsel for respondent has submitted that appeal was preferred before the State Commissioner after a delay of 109 days, as recorded in the order passed by the National Commission and petitioner being a Government Organization, cannot claim any special privilege for the grant of discretionary relief of condonation. It is further submitted that petitioner failed to explain the delay, and therefore, both the forums below have rightly refused to condone the delay. Learned counsel has placed strong reliance on the judgments of this Court

in the case of Delhi Development Authority Vs. Bachhi Devi, Through L.Rs. 2024 SCC Online Del. 7394 and Delhi Development Authority Vs. Swaran Chadha 2024 SCC Online Del. 7651.

9. Section 15 of the Consumer Protection Act, 1986 provides as under:-

“15. Appeal.-

Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed: PROVIDED that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.”

10. As is clear from the bare language of the provision, the period for filing an appeal to the State Commission is 30 days from the date of the impugned order. However, the State Commission may entertain the appeal even after the expiry of said period of 30 days, provided sufficient cause for not filing it within that period is shown.

11. Admittedly, the impugned order was passed by the District Forum on 12.07.2023. The limitation period for filing the appeal is 30 days. The appeal was preferred before the State Commission on 28.11.2023. Excluding 30 days time granted for filing the appeal, it is quite obvious that appeal was filed beyond the prescribed period.

12. As per the petition, certified copy of the order passed by the District Forum was obtained on 15.09.2023 but in Para 19 of its order, State Commission has recorded that the impugned order dated 12.07.2023 was received by the petitioner on 25.08.2023 and the said date has been mentioned by the petitioner itself in the application filed before the State Commission. Since the certified copy of the order was received by the petitioner on 25.08.2023, limitation of 30 days for filing the appeal shall start running from 25.08.2023. That being so, the appeal should have been filed on or before 24.09.2023, whereas, it was actually filed on 28.11.2023. Thus, there was a delay of 64 days in filing the appeal. Learned State Commission was of the view that there was no proper explanation offered by the appellant for the delay except mentioning of events and concluded that petitioner has miserably failed to give any acceptable and cogent reasons sufficient to condone such a delay. In arriving at such conclusion, the State Commissioner relied upon the decision of the Hon’ble Supreme Court in the case of Chief Post Master General & Ors. Vs. Living Media India Limited & Ors., AIR 2012 SC 1506, wherein, the Apex Court held as under:-

“12 The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process.

The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

13. Thus viewed, consideration to condone can be made only if there is a reasonable explanation and the condonation cannot be merely because the appellant is a Government body where procedural and bureaucratic delays are well known. The explanation offered depicts the casual approach unmindful of law of limitation despite being aware of provisions of law.

14. In Pathapati Subba Reddy (died) by L.Rs. v. The Special Deputy Collector (LA), 2024 SCC OnLine SC 513, Hon'ble Supreme Court has observed as under:—

“16. Generally, the courts have adopted a very liberal approach in construing the phrase ‘sufficient cause’ used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In Collector, Land Acquisition, Anantnag v. Katiji, this Court in advocating the liberal approach in condoning the delay for ‘sufficient cause’ held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of ‘sufficient cause’ for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases ‘liberal approach’, ‘justice-oriented approach’ and cause for the advancement of ‘substantial justice’ cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.”

15. State Commission exercised its discretionary power while considering the application seeking condonation of delay and keeping in mind all the facts and circumstances of the case, did not find it to be a fit case where the delay should have been condoned and such order has been affirmed in revision by the National Commission.

16. Present petition has been filed under Article 227 of the Constitution of India. Explaining the scope of jurisdiction under Article 227, the Supreme Court in the

case of *Garment Craft Vs. Prakash Chand Goel*, (2022) 4 SCC 181, observed that the High Court exercising supervisory jurisdiction does not act as a Court of Appeal or to appreciate, re-weigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. High Court is not to substitute its own decision on the facts and conclusion, for that of the Inferior court or Tribunal. The dereliction of duty for flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases like when there is no evidence at all to justify, the finding is so perverse that no reasonable person can possibly come to such a conclusion that the Court or Tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

17. Similarly, the scope and jurisdiction under Article 227 has also been explained by the Supreme Court in the case of *Estralla Rubber Vs. Dass Estates (P) Ltd.* (2001) 8 SCC 97 as under:-

"6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to."

18. The exercise of discretionary powers while refusing to condone the delay cannot be interfered under Article 227 of the Constitution, unless the order shows complete lack of jurisdiction or perversity. The impugned order passed by the National Commission and State Commission do not reflect the same, and therefore, the present petition is hereby dismissed.