
(2014) 09 SHI CK 0019
In the High Court Of Himachal Pradesh
Case No : CMP(M) No. 1097 of 2014

H.P. State Electricity Board Ltd.

APPELLANT

Vs

Baldev Verma

RESPONDENT

Date of Decision : 18-09-2014

Acts Referred:

Citation : (2014) 3 ShimLC 1615

Hon'ble Judges : Mansoor Ahmad Mir, C.J.; Dharam Chand Chaudhary, J

Bench : Division Bench

Advocate : Satyen Vaidya, Advocate for the Appellant; Surender Saklani, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J.—By the medium of this application, the applicants have sought condonation of delay of 1 year, 2 months and 17 days, which has crept-in, in filing the appeal, on the grounds taken in the memo of application.

2. We have gone through the application. The application is vague. The applicants have given reason for not filing the appeal in paragraph 2 of the application and paragraphs No. 1, 3 and 4 contain routine averments. It is apt to reproduce paragraph 2 of the application hereunder:

"2. That it is the respectful submission of the Applicants/Appellants herein that they could not file the L.P.A. within the period of limitation in as much as the Board has not received the certified copy of the judgment rather have no knowledge regarding the decision of this case, the knowledge was acquired only on receipt of copy of Execution Petition No. 4057 of 2013. Besides, the Applicants/Appellants have to exhaust a long channel to reach as a final conclusion."

3. The Writ Petition, i.e. CWP No. 4217 of 2011, titled Baldev Verma vs. Himachal Pradesh State Electricity Board Ltd. and anr., came to be decided as far back as on 26th December, 2012. The applicants have not disclosed the date of

knowledge i.e. the date of receipt of the copy of the judgment, in the entire application.

4. We may refer to the decision of the Apex Court in *Office of The Chief Post Master General and Others Vs. Living Media India Ltd. and Another*, wherein it was observed that the law of limitation binds everybody, including the Government Departments and the claim on account of inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies having become available. It is profitable to reproduce paragraphs 12 and 13 of the said decision hereunder:

"12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a SLP in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. 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. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

5. The Apex Court in *Union of India (UOI) and Others Vs. Nripen Sarma*, while dismissing the appeal, filed by the Union of India, on the ground of delay, observed in paragraphs No. 4, 6 and 7, as under:

"4. We have also gone through the condonation of delay application which was filed in the High Court. In our considered view, the High Court was fully justified in dismissing the appeal on the ground of delay because no sufficient cause was shown for condoning the delay.

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6. The Union of India ought to have been careful particularly in filing this Civil Appeal because the Division Bench, by the impugned order, has dismissed the appeal before it on the ground of delay. It is a matter of deep anguish and distress that majority of the matters filed by the Union of India are hopelessly barred by limitation and no satisfactory explanations exist for condoning inordinate delay in filing those cases.

7. On consideration of the totality of the facts and circumstances, we are constrained to dismiss this appeal on the ground of delay. However, in the larger interest, we are keeping the question of law open."

6. It has also been held by the Apex Court in Balwant Singh (Dead) Vs. Jagdish Singh and Others, , that the applications for condonation of delay cannot be allowed as a matter of right and in a routine manner. It is profitable to reproduce paragraph 16 of the said decision hereunder:

"16. Above are the principles which should control the exercise of judicial discretion vested in the Court under these provisions. The explained delay should be clearly understood in contradistinction to inordinate unexplained delay. Delay is just one of the ingredients which has to be considered by the Court. In addition to this, the Court must also take into account the conduct of the parties, bona fide reasons for condonation of delay and whether such delay could easily be avoided by the applicant acting with normal care and caution. The statutory provisions mandate that applications for condonation of delay and applications belatedly filed beyond the prescribed period of limitation for bringing the legal representatives on record, should be rejected unless sufficient cause is shown for condonation of delay. The larger benches as well as equi-benches of this Court have consistently followed these principles and have either allowed or declined to condone the delay in filing such applications. Thus, it is the requirement of law that these applications cannot be allowed as a matter of right and even in a routine manner. An applicant must essentially satisfy the above stated ingredients; then alone the Court would be inclined to condone the delay in the filing of such applications."

7. The Apex Court has laid down similar principles in Perumon Bhagvathy Devaswom, Perinadu Village Vs. Bhargavi Amma (Dead) by LRs. and Others, , which has been referred to in paragraph 15 of its judgment by the Apex Court in Balwant Singh's case (supra).

8. Having said so, no case is made out for condonation of delay. Therefore, the application is dismissed. Consequently, the Letters Patent Appeal is dismissed as

time barred, alongwith pending CMPs, if any.