
(2015) 06 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

Case No : 1088 of 2015

Navyuvak Gramoudyog Vikas Samiti

APPELLANT

Vs

Oriental Insurance Co. Ltd. and Ors.

RESPONDENT

Date of Decision : 26-06-2015

Acts Referred:

Citation : (2015) 06 NCDRC CK 0001

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : Petition Dismissed

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 2.8.2011 passed by the U.P. State Consumer Disputes Redressal Commission, Lucknow (in short, "the State Commission") in Appeal No. 2489 of 2002 - Nav Yuvak Gramudiyog Vikas Samiti v. The Oriental Ins. Co. Ltd. by which, appeal was dismissed in default.

2. BRIEF facts of the case are that Complainant/petitioner filed complaint before District Forum for claiming compensation of Rs. 2,76,454.37 which was dismissed by learned District Forum vide order dated 4.9.2002. Complainant filed appeal before State Commission which was dismissed by impugned order against which this revision petition has been filed along with application for condonation for delay. Heard learned Counsel for the petitioner on the application for condonation of delay.

3. PETITIONER has filed application for condonation of delay and submitted that order dated 2.8.2011 was passed in his absence and received certified copy on 9.2.2015, so, delay of 1338 days in filing revision petition be condoned. As per office report, there is delay of 1264 days in filing revision petition. In the application for condonation of delay it has nowhere been mentioned that he has not received free copy of the impugned order and in such circumstances, it can be presumed that he received copy of impugned order well in time, but no reason has been given for not filing revision petition within prescribed period after receiving free copy of the impugned order.

4. IN revision petition it has been mentioned that in the year 2014, petitioner was told by his Advocate that matter was dismissed on 2.8.2011. It has not been mentioned that on which date of which month petitioner was intimated by the Advocate about dismissal of appeal. Petitioner applied for certified copy on 9.2.2015 which was issued on same date. There is no explanation for not applying for certified copy just after receiving intimation from his Advocate regarding dismissal of appeal in August, 2011. As there is inordinate delay of 1264 days, this delay cannot be condoned in the light of the following judgment passed by the Hon"ble Apex Court. In R.B. Ramlingam v. R.B. Bhavaneshwari : 2009 (2) Scale 108, it has been observed: "We hold that in each and every case the Court has to examine whether delay in filing the special appeal leave petitions 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."

5. IN Ram Lal and Ors. v. Rewa Coalfields Ltd., : AIR 1962 Supreme Court 361, it has been observed; "It is, however, necessary to emphasize that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a discretionary jurisdiction vested in the Court by S. 5. If sufficient cause is not proved nothing further has to be done; the application for condonation has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant."

6. HON "ble Supreme Court after exhaustively considering the case law on the aspect of condonation of delay observed in Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation reported in : (2010) 5 SCC 459 as under; "We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time."

Hon"ble Apex Court in : (2012) 3 SCC 563 - Post Master General & Ors. v. Living Media India Ltd. and Anr. has not condoned delay in filing appeal even by Government department and further observed that condonation of delay is an exception and should not be used as an anticipated benefit for the Government

departments.

7. HON "ble Apex Court in : 2012 (2) CPC 3 (SC) - Anshul Aggarwal v. New Okhla Industrial Development Authority observed as under: "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986, for filing appeals and revisions in Consumer matters and the object of expeditious adjudication of the Consumer disputes will get defeated, if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras".

Thus, it becomes clear that there is no reasonable explanation at all for condonation of inordinate delay of 1264 days. In such circumstances, application for condonation of delay is dismissed. As application for condonation of delay has been dismissed, revision petition being barred by limitation is also liable to be dismissed.

8. CONSEQUENTLY , the revision petition filed by the petitioner is dismissed as barred by limitation at admission stage with no order as to costs.