

**(2016) 09 NCDRC CK 0134**

**In the National Consumer Disputes Redressal Commission**

**Case No : 2730 of 2016**

POST MASTER & ANR.

APPELLANT

Vs

KANHAIYA LAL S/O. SH. SHIVSHANKAR PRASAD

RESPONDENT

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**Date of Decision : 30-09-2016**

**Acts Referred:**

[Limitation Act, 1963](#), [Section 5](#) -  
Extension of prescribed period in certain cases

**Citation : 2016 4 CPR 154**

**Hon'ble Judges : Ajit Bharihoke**

**Advocate : Bhawna Massey**

**Final Decision : Petition Dismissed**

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## **Judgement**

1. This revision is directed against the concurrent findings of the Fora below directing the petitioners/opposite parties as under: - " We hereby order that the department of post should give Rs.10,000/- (Ten thousand) being the value of the article due to fault in service and in additional to this sum of Rs.1250/- realized from the respondents should be refunded to him. Besides this Rs.2000/- (two thousand) being the cost of litigation should be paid to the complainant. Thus total amount of Rs.13,225/- should be paid within a month otherwise interest at the rate of 10% per annum will have to be paid also.

2. The explanation for the delay in filing of revision petition is given in para-3 of the application, which is reproduced as under: - " That the accompanying petition was dismissed on 23.2.2016 and the certified copy was dispatched by the Id. State Commission on 2.3.2016, which must have been received around 5.3.2016. Immediately thereafter, the matter was referred for legal opinion over the matter, which was much delayed and legal opinion was received on 16.7.2016. Immediately thereafter, the case was sent to the petitioner No.2 on 19.7.2016 for sending the matter for appeal. Immediately thereafter, the present counsel was nominated in the last week of July, 2016. The documents were sent to the present counsel in the first week of August, 2016. However, the counsel

asked for the complete records of the Id. Distt. Forum, which was delivered to him on 9.8.2016. Immediately thereafter, the case was prepared and after the vetting/approval, immediately the present petition was filed on before this Hon"ble Commission. The above mentioned process had taken much time, as explained above, due to which the accompanying petition could not be filed within the prescribed period of limitation and some delay had occurred."

3. Learned counsel for the petitioners has contended that the delay in filing of revision petition is unintentional. The delay has occurred only because of the bureaucratic procedure, which is required to be followed by the government agencies.

4. Before adverting to the contention of learned counsel for the petitioners, it would be useful to have a look at the law relating to the condonation of delay.

5. Hon"ble Supreme Court in Post Master General and others vs. Living Media India Ltd. and another (2012) 3 Supreme Court Cases 563 has held as under:-  
"24. After referring various earlier decisions, taking very lenient view in condoning the delay, particularly, on the part of the Government and Government Undertaking, this Court observed as under ;

" 29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.

30. Public interest undoubtedly is a paramount consideration in exercising the courts" discretion wherever conferred upon it by the relevant statutes. Pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. Prompt and timely payment of compensation to the landlosers facilitating their rehabilitation /resettlement is equally an integral part of public policy. Public interest demands that the State or the beneficiary of acquisition, as the case may be, should not be allowed to indulge in any act to unsettle the settled legal rights accrued in law by resorting to avoidable litigation unless the claimants are guilty of deriving benefit to which they are otherwise not entitled, in any fraudulent manner. One should not forget the basic fact that what is acquired is not the land but the livelihood of the landlosers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under Section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. It serves no public interest."

The Court further observed:

"27. 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 special leave petition 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.

28. 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.

29. 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.

30. 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.

31 . In view of our conclusion on Issue (a), there is no need to go into the merits of Issues (b) and (c). The question of law raised is left open to be decided in an appropriate case.

32. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs."

6. In *Ram Lal and Ors. Vs. Rewa Coalfields Ltd.* AIR 1962 Supreme Court 361 , it has been observed as under: - "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".

7. In R.B. Ramlingam Vs. R.B. Bhavaneshwari, 2009 (2) Scale 108 Apex Court has observed as follows: "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.

8. Hon''ble Supreme Court in Anshul Aggarwal vs. New Okhla Industrial Development Authority, IV (2011) CPJ 63 (SC) 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."

9. The explanation for delay given by the petitioners is unacceptable. Merely because the petitioner is a government department, it cannot be treated differently from the other litigants. As there is no proper explanation for the delay except the plea of procedural delay. I do find any reason sufficient to condone the delay. Application for condonation of delay is accordingly dismissed. As a consequence, revision petition is also dismissed as barred by limitation.