
(2006) 07 AHC CK 0225
In the Allahabad High Court

Ram Bilas Mahto

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 11-07-2006

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23

Citation : (2006) 4 ACC 733 : (2007) ACJ 2484

Hon'ble Judges : U.K. Dhaon, J;R.P. Yadav, J

Bench : Division Bench

Judgement

1. Heard Mr. Ravindra Pratap Singh, the learned Counsel for the appellant and Mr. Ved Prakash, learned Counsel for the respondent.

2. This appeal u/s 23 of the Railway Claims Tribunal Act, 1987 is directed against the order dated 25.2.2004 passed by the Railway Claims Tribunal, Lucknow Bench, Lucknow dismissing the application for restoration of the claim petition.

3. It appears the appellant Ram Bilas Mahto had filed a claim petition before the learned Railway Tribunal, which was dismissed in default on 21.10.2002, which was a date fixed for framing issues. He moved an application on 10.1.2003 for recall of the order dated 21.10.2002. The application was rejected with a finding that there was undue delay in filing the restoration application and the application was barred by limitation because it was not filed within the period of limitation i.e., 30 days. The Tribunal doubted the genuineness of medical certificate filed by the appellant in support of the restoration application.

4. It is against this order, the present appeal has been filed.

5. It is submitted by the learned Counsel that the appellant had been suffering from Angina pain and hypertension from 15.10.2002 to 5.1.2003 and he filed a medical certificate issued by Dr. Ashok Kumar Sharma, Kalpana Nursing Home Begusarai in support of that application, but the same was not accepted by the Tribunal and the restoration application was wrongly dismissed.

6. On a careful consideration of the matter, we are of the view that the impugned order cannot be sustained.

7. It is true that the restoration application was filed after 80 days, whereas the limitation prescribed for filing of the restoration application is 30 days. But when the application was filed beyond 30 days, the Tribunal was required to see as to whether there was a sufficient ground for this delay? The medical certificate filed by the appellant was not challenged from the other side and we are told that no counter affidavit was filed. The averments made in the application and the affidavit of the appellant were unrebutted. The Tribunal has been too technical in not relying on the medical certificate for the reason that the appellant had shown illness from 15.10.2002 to 5.1.2003 and the medical certificate was for 19.10.2002 to 7.1.2003. This fact in itself was not sufficient to disbelieve the ground given by the appellant. The Tribunal has been too harsh on the appellant in dismissing his application, whereas in such matters, liberal approach is required. All efforts should be made to dispose of the case on merits instead of non-suited a litigant on technical grounds. The health of a person is first concern, he can fight a legal battle, if he is alive and not otherwise. If the appellant has been suffering from Angina pain and hypertension, he would certainly go to the Doctor first and thereafter look for the litigation, The expanses of word sufficient cause engulf in its fold any cause good or just, bona fide and honest individually and collectively. Any cause which prevents a person from approaching the Court within stipulated time is sufficient cause. For deciding the question of sufficiency of cause, it is the test of reasonableness in normal circumstances, which has to be applied.

8. In the present case, the material on record indicated that the appellant had been suffering from Angina pain and hypertension from 15.10.2002 to 7.1.2003. He filed an application for restoration on 10.1.2003. He was resident of village Sihoma, P.S. Motihari, District Begusarai (Bihar), which is faraway from the place of sitting of Tribunal at Lucknow.

9. The appellant has shown his vigilance in approaching the Railway Claims Tribunal with the application for restoration immediately after recovery from ailment and he has sufficiently explained the delay in not filing the application for restoration within due time. Therefore, the appeal deserves to be allowed.

10. In the result, the appeal is allowed. Impugned order dated 25.2.2003 dismissing the restoration application is set aside. Case No. OA 9900112 is restored to its original number. The matter is remanded to the learned Tribunal for adjudication on merits after affording due opportunity to the parties to adduce evidence and make their submissions.

11. The parties are directed to appear before the Railway Claims Tribunal, Lucknow on 3.8.2006.

12. The costs shall depend on the ultimate result of the claim petition.