
(2014) 08 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

Regional P F Commissioner

APPELLANT

Vs

Kalubhai Virabhai Patel

RESPONDENT

Date of Decision : 21-08-2014

Acts Referred:

Citation : 2014 3 CPR 820

Hon'ble Judges : V.K.JAIN , B.C.Gupta J.

Final Decision : Petition dismissed

Judgement

1. THIS revision petition is directed against the order of the State Commission dated 29 -11 -2013, whereby the said Commission set aside the order of the District Forum dismissing the complaint and directed the petitioner to pay monthly pension to the complainant at the rate of Rs.1,914/ - with effect from 25 -03 -2007. The arrears to be calculated at the rate of Rs.291/ - per month with effect from 25 -06 -2007 were also directed to be paid to the complainant along with interest at the rate of 12% per annum. The complainant was also awarded Rs.5,000/ - towards compensation for mental harassment, Rs.2,500/ - towards the cost of litigation and Rs.1,000/ - towards the cost of defending the appeal.

2. IN passing the aforesaid order, the State Commission came to the conclusion that the complainant was entitled to the pension at the rate of Rs.800/ - per month prior to 16 -11 -1995, Rs.1,114/ - after 16 -11 -1995 and in addition to that he was also entitled to Rs.800/ - per month towards pension, for the earlier service of more than 20 years.

3. SINCE there was a delay in filing the revision petition, I.A.No.5299 of 2014 has been filed by the petitioner seeking condonation of delay of 150 days in filing the revision petition. The application to the extent it is relevant reads as under: "That the petitioner received the certified copy and annexures on 13 -05 -2014. Certain other documents were called from the counsel. Thereafter, the present revision petition was sent for approval and waiting due to official requirements. It is respectfully submitted that due care has been taken at each and every steps for filing the present revision petition."

A careful perusal of the application would show that it does not disclose as to whether any free copy of the impugned order was received by the petitioner from the State Commission or not. Ordinarily such copies are sent to the parties after final decision of the matter. More importantly, a perusal of the copy which the petitioner has filed along with the revision petition would show that it is a notarized copy of the certified copy issued by the State Commission. The certificate given by the State Commission on the bottom of the document would show that the application for obtaining certified copy was submitted on 29 -11 -2013, and the certified copy was ready on 11 -12 -2013. The certificate further shows that the certified copy was dispatched on the same date i.e. 11 -12 -2013. For the reasons, which one can only speculate, the application does not disclose as to by whom the certified copy dispatched on 11 -12 -2013 was received. This is not the averment in the application that the certified copy was received by the advocate on or around 11 -12 -2013 but he retained the same for almost five months and sent the same to the petitioner on 13 -05 -2014. No letter from the advocate forwarding the certified copy of the impugned order has been placed on record. Therefore, it would be only logical to infer that the documents evidencing receipt of the certified copy from the State Commission and thereafter by the petitioner have been deliberately withheld so as to avoid explaining the delay between the date on which the certified copy was dispatched from the State Commission and the date of 13 -05 -2014 on which the petitioner claims to have received the certified copy and the annexures. It would also be pertinent to note here that none of the annexures filed with the petition are certified copies of the documents. Therefore, it cannot be said that the filing of the revision petition was delayed on account of the petitioner waiting for the certified copies of the relevant documents.

4. THE revision petition has been filed on 08 -08 -2014, though even as per the petitioner's own saying the certified copies of the order and the annexures have been received by him on 13 -05 -2014. There is absolutely no worthwhile explanation for the time lag between 13 -05 -2014 and 08 -08 -2014. In these circumstances, we are of the considered view that the petitioner has failed to explain the delay in filing the revision petition.

5. THE Hon'ble Supreme Court in Anshul Aggarwal vs. New Okhla Industrial Development Authority, 2011 4 CPJ 63) inter alia held 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".

In Post Master General and Ors. Vs. Living Media India Ltd. and Anr., 2012 3 SCC 563, the Apex Court observed as under:

"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."

6. ONE of the objectives behind enactment of Consumer Protection Act is to grant expeditious relief to the consumer and that is why the act enjoins upon the consumer forum to decide the complaint, as far as is possible within the period of three months. The aforesaid objective, in our opinion, cannot be achieved, if we condone the delay as a matter of course, without a satisfactory explanation for the delay having been given. The application seeking condonation of delay in filing the revision petition is, therefore, dismissed. Since, we have dismissed the application seeking condonation of delay in filing the revision petition, the revision petition stands dismissed as barred by limitation.