

(2003) 11 GAU CK 0003

In the Gauhati High Court

Case No : Misc. Case No. 155 of 2003 in MAC App. No. 46 of 2003

State of Assam and Others

APPELLANT

Vs

S. Rai

RESPONDENT

Date of Decision : 07-11-2003

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2004) 1 GLT 344

Hon'ble Judges : P.P. Naolekar, C.J.; Iqbal Ahmed Ansari, J

Bench : Division Bench

Advocate : G.A. and R.K. Bora, for the Appellant; R.D. Lal, M. Nandi and S. Das, for the Respondent

Judgement

P.P. Naolekar, J.—The appeal against the award dated 3.6.2002 passed by the Motor Accident Claims Tribunal, Guwahati in MAC Case No. 392/98 has been filed along with an application u/s 5 of the Limitation Act, 1963, as it is barred by 312 days. The reasons given as contended in the application in not presenting the appeal within the period of limitation are contained in paragraphs 3 and 4, which read as under:

3. That the applicant states that immediately on coming to know regarding the passing of the aforesaid judgment and award, the applicant No. 2 engaged to collect the relevant papers and documents. Thereafter the Government Advocate was consulted who advised that it is a fit case for going to appeal. Accordingly, the applicant moved the Higher authority for approval and sanction for filing the appeal and for arranging to deposit the amount of Rupees twenty five thousand (Rs. 25,000/-) as required under law. The applicant No. 2 also arranged to obtain certified copy of the aforesaid judgment and award dated 3.6.02.

4. That the memorandum of appeal was prepared by the Government Advocate on 19.3.03 who accordingly requested the applicant to arrange for depositing Rs. 25,000/- as required by law. The papers had to be proceed and approval of the concerned authority had to be obtained for the same and it took some time

which was beyond the control of the applicants.

2. It appears from the averments that the case of the Government is that the appeal could not be filed within the period of limitation as the Government was arranging the fund of Rs. 25,000/- which is required to be deposited as a condition precedent for filing the appeal. It is beyond our comprehension that the Government has to take so much time to arrange the fund, which is required to be deposited before the appeal could be entertained and we cannot believe that the State of Assam is short of fund, so that it had to take so much time to arrange a fund of Rs. 25,000/-. It is clear from the averments made in the application that no details have been provided as to what steps have been taken at different levels for prosecuting the process of filing the appeal in the High Court. Strangely enough, no details or cogent reasons are mentioned for explaining the delay in filing the appeal. From the averments made in the application seeking the permission of the Court for condonation of delay, it is apparent to us that the matter has been taken in a most casual manner and we can say so that in a negligent manner. When there is enormous delay in filing the appeal one can normally expect, that meticulous care is taken in explaining the delay as to why the appeal could not be filed within a period of limitation and why the appeal is being filed taking so much of time. The contents of the application on the face of it reflect the casual manner in which the application is being prepared.

3. The contents of the application do not indicate any bonafide or sufficient reason to condone the delay. The application for condonation of delay stands dismissed. Consequently, the appeal also stand dismissed.

4. We cannot stop here. We are pained to notice the manner in which the Court proceedings are being taken at the official level while moving application seeking orders from the Court on condonation application. In paragraph 7 of the application, it has been alleged that public money is involved and public interest requires that delay in filing be condoned. When the applicants are concerned about public interest and public money one can expect from them to act in a reasonable manner and approach the Court within the time permitted and if it is not possible, at least to explain to the Court as to why they could not file appeal within the period of limitation prescribed. The contents of application do not reflect the sincere efforts made by the officials in processing the papers for filing the appeal.

We are constrained to say that the Officer(s) involved in the process of filing the appeal against the award dated 3.6.2002, prima-facie, have not acted diligently. The action of the officer(s), prima-facie, indicates negligence and lethargy on their part in handling the case and, therefore, We direct the Inspector General of Police (Administration) Govt. of Assam, Guwahati, to hold a fact finding enquiry against the officer(s), who are concerned with the filing of the appeal regarding the manner in which the process of filing appeal has been dealt with and to find out which of the officer/officers are responsible for the delay caused in filing the

appeal.

5. These directions we are issuing because we feel that the legitimate action which has to be taken by the Government for challenging the order/orders in the Court has been hampered or delayed on account of inaction and casual manner of dealing with the matter at official desks.

6. The Inspector General of Police (Administration), Government of Assam, Guwahati shall place before this Court his report within a period of three weeks from the date of receipt of this order.

7. The office is directed to send a copy of this order to the Inspector General of Police (Administration), Government of Assam, Guwahati, immediately. Office is further directed that the report so submitted by the Inspector General of Police (Administration) shall be placed before this Court along with MC No. 155/03 (MAC Appeal No. 46/03) after three weeks.