

(2023) 03 MP CK 0128

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 20 Of 2022

??State Of Madhya Pradesh And Others

APPELLANT

Vs

Domalal And Others

RESPONDENT

Date of Decision : 28-03-2023

Acts Referred:

Employees Compensation Act, 1923 — Section 30
Limitation Act, 1963 — Section 5

Citation : (2023) 03 MP CK 0128

Hon'ble Judges : Gurpal Singh Ahluwalia, J

Bench : Single Bench

Advocate : Rohit Jain

Final Decision : Dismissed

Judgement

Gurpal Singh Ahluwalia, J

1. On a call given by the State Bar Council of M.P. the lawyers are abstaining from work in spite of letter dated 22.3.2023, issued by the Bar Council of India thereby requesting the State Bar Council of M.P. to follow the various dictums passed by the Supreme Court in respect of strike.

2. The Division Bench of this Court by order dated 24.3.2023 passed in In Reference (Suo Moto) Vs. Chairman, State Bar Council of M.P., (W.P.No.7295/2023) has issued following directions :-

“(i) All the advocates throughout the State of Madhya Pradesh are hereby directed to attend to their court work forthwith. They shall represent their clients in the respective cases before the respective courts forthwith;

(ii) If any lawyer deliberately avoids to attend the court, it shall be presumed that there is disobedience of this order and he will be faced with serious consequences including initiation of proceedings for contempt of court under the Contempt of Courts Act;

(iii) If any lawyer prevents any other lawyer from attending the court work, the same would be considered as disobedience of these directions and he will be faced with serious consequences including initiation of proceedings under the Contempt of Courts Act;

(iv) Each of the judicial officers are directed to submit a report as to which lawyer has deliberately abstained from attending the court;

(v) The judicial officers shall also mention the names of advocates who have prevented other advocates from entering the court premises or from conducting their cases in the court;

(vi) Such advocates shall be dealt with seriously which may even include proceedings under the Contempt of Courts Act as well as being debarred from practice.

3. In spite of that Lawyers are abstaining from court work.

4. Under these circumstances, this Court has no other option but to issue notice to counsels for the respondents to show cause as to why contempt proceedings be not initiated against them for violating the order dated 24.3.2023 passed by Division Bench by this Court in the case of Chairman, State Bar Council of M.P and others (supra).

5. Office is directed to register separate proceedings for the same.

6. This Misc. Appeal under section 30 of the Employees Compensation Act, 1923 has been filed against the award dated 12.1.2011 passed by the Commissioner, Employees Compensation, Labour Court, Betul in Case No.11/WB(F)2009.

7. I.A.No.19/2022 has been filed for condonation of delay. The application filed under section 5 of the Limitation Act reads as under :-

"1. That, after receiving the aforesaid award three times the concerning officer sent letter to the Higher Authority seeking necessary sanctioned for filing the appeal but due to want of necessary sanctioned the appeal could not be filed in earlier time however, aforesaid sanctioned was received on 17.10.2019 therefore, the present appeal is being filed. Thereafter, legal opinion was sought and as per opinion the amount of Rs. 9,17,692/- was deposited with the Commissioner (Employees Compensation Act), thereafter due to Covid-19 the appeal could not be filed.

2. That, the delay has been occurred due to want of sanctioned i.e. on the administration procedure, therefore, the delay may kindly be condoned.

PRAYER

It is therefore prayed that this Hon'ble Court be pleased to condone the delay in filing instant appeal".

8. Admittedly, this appeal has been filed after eight long years of the award

passed by the Commissioner, Employees Compensation Act, Betul. The only reason assigned in the application for condonation of delay is that the concerning officer sent a letter to the higher authority for necessary sanction for filing appeal but due to want of necessary sanction the appeal could not be filed and the sanction was received on 17.10.2019. As per legal opinion an amount of Rs.9,17,692/- has been deposited. Thus, it was claimed that the delay has occurred on account of want of sanction. This application is supported by an affidavit of Shri Danish Ahmed Khan, Chief Executive Officer, Janpad Panchayat, Amla, District Betul.

9. It is true that the State has to function through its functionaries and sometimes some delay takes place on account of procedural requirements; but, under the pretext of procedural requirement, the State functionaries cannot be allowed to sit over the file and to file the appeal with a long delay of more than eight years without assigning any reason. The application is completely silent as to when the legal opinion for filing the appeal was sent by the Govt. Advocate. It is completely silent that when that legal opinion was processed by different functionaries of the State Govt. It is completely silent that on whose table the proposal remained lying for unexplained long days. The application is completely silent as to whether any Departmental action was taken by the authorities against the erring person(s) who is/are responsible for sitting over the matter. Only one conclusion can be drawn that the whole effort of the erring person who was sitting over the matter was to give undue advantage to the respondents so that the appeal can be dismissed as barred by time. The State must realise that it should not allow its functionaries to act in a malafide, casual and negligent manner and that can be corrected only when a departmental action is taken and stern punishment is imposed on the erring official to protect the interest of the State Govt. Really surprising that even the application for condonation of delay has been filed in a most casual manner, most probably under an impression that since State is the appellant, therefore, it is entitled for special treatment and has a right to file an appeal with unexplained long delay. According to the award, compensation of Rs.3,11,970/- was passed against the appellant. From the record of the Tribunal it is clear that the appellants were being represented by their counsel and the witnesses were also cross examined by Shri Runwal, counsel for the appellant.

10. Be that whatever it may be, but one thing is clear that not only the appeal has been filed with unexplained delay of approximately eight years but the application for condonation of delay is equally silent about the steps taken by the authorities. It is true that the application for condonation of delay has to be considered with a lenient view but the lenient view cannot be stretched to the extent of treating the State Govt. as a special litigant under an impression that it is not bound by the principles of Limitation Act. It is for the Chief Secretary of the State of M.P. to consider all the aspects, but one thing is clear that the applications should not be filed by the State in a casual manner.

11. As no reason much less sufficient reason has been shown to condone the delay, accordingly I.A.No.19/2022 is hereby rejected. Ex-consequentia, the appeal is also dismissed as barred by time.

12. Since, this Court has already come to a conclusion that the functionaries of the State Govt. were either negligent or casual in dealing with the matter or they were deliberately sleeping over the file to give undue advantage to the respondents, therefore, the public exchequer cannot be put under pressure only because the functionaries of the State Govt. were negligent or casual. As per the application for condonation of delay, the compensation amount of Rs.9,17,692/- has been deposited. Thus, the Chief Secretary of the State of M.P. is directed to conduct an enquiry to find out as to who was /were the person(s) responsible for sitting over the matter and not filing the appeal within the period of limitation. After giving opportunity to such erring officer(s) to explain their conduct, the Chief Secretary is directed to fix their liability and recover the amount of Rs.9,17,692/- from such erring officer(s) in equal proportion. The Chief Secretary, State of M.P. is directed to submit its action Taking Report within a period of 60 days before the Registrar General of this Court.