
(2003) 03 MP CK 0045

In the Madhya Pradesh High Court

Case No : Writ Petition No. 298 of 2001

State of M.P. and Others

APPELLANT

Vs

Ramesh Prasad Verma and Others

RESPONDENT

Date of Decision : 27-03-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Limitation Act, 1963 — Section 5

Madhya Pradesh Industrial Relations Act, 1960 — Section 65

Citation : (2003) 3 MPHT 367 : (2003) 4 MPLJ 193

Hon'ble Judges : K.K. Lahoti, J

Bench : Single Bench

Advocate : Mukesh Agarwal, for the Appellant; S.K. Choubey, for the Respondent

Final Decision : Allowed

Judgement

K.K. Lahoti, J.

Petitioners have filed present petition challenging the order passed by Industrial Court (Annexure P-7), in Case No. 673/MPJR/99, decided on 25-2-2002. By the impugned order, the Industrial Court dismissed the appeal as barred by time.

From the perusal of record it appears that there was delay of 87 days in filing the appeal before the Industrial Court. Delay as explained in the application filed u/s 5 of Limitation Act, was that the award was passed on 5-7-99, petitioners applied for certified copy of the award on 12-8-99, which was received on the same date, and thereafter, the matter was sent to the Collector for appointment of Officer-in-Charge. The Officer-in-Charge, who was appointed by the Collector was engaged in election duty. Consequently, he could not file appeal upto 30th October, 1999. On these grounds the delay was sought to be condoned.

The Industrial Court rejected the application on the ground that there is no explanation on the part of petitioner, the delay occurred between 20-8-99 to 30-10-99 and in this regard, the Industrial Court found that there is no proper

explanation. Therefore, the application was dismissed. Consequently, the appeal was also dismissed.

Learned Counsel for petitioners contends that the petitioners have made out sufficient cause of condonation of delay. There was explanation on the part of petitioners for not filing appeal within time. The Court should take lenient view in condoning the delay, particularly when the party seeking condonation is Government.

On the contrary, learned Counsel for respondent No. 1 supported the order and contended that, in absence of proper explanation, Industrial Court has rightly rejected the application.

Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. In every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of malafides or it is not put forth as part of a dilatory strategy, the Court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the Court should lean against acceptance of the explanation. A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. The words "sufficient cause" u/s 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice.

In the present case, the delay of 87 days was explained by the petitioners and there was sufficient ground to condone the delay. The explanation submitted by the petitioners was satisfactory. The Officer-in-Charge, who was on election duty could not file the appeal before the Industrial Court in time. This was a sufficient ground to condone the delay. In these circumstances, the petitioners have properly explained the delay and consequently, its application was wrongly rejected by the Industrial Court.

In the circumstances, this petition is allowed. The order (Annexure P-7) passed by Industrial Court, rejecting the application for condonation of delay in filing the appeal, is hereby quashed. The delay in filing the appeal before the Industrial Court is condoned. The matter is remitted back to the Industrial Court to decide the appeal filed by petitioners on merit. Parties are directed to remain present before the Industrial Court, Jabalpur on 5th of May, 2003. For this date no notice will be necessary. The Industrial Court will hear the matter on merit, after affording due opportunity to both the sides and will decide the case on merit, in

accordance with law. No order as to costs.