

(2017) 02 RAJ CK 0050
In the Rajasthan High Court
Case No : 16 of 2016

State of Rajasthan.

APPELLANT

Vs

Man Sukh Das s/o Shri Lalu Ram

RESPONDENT

Date of Decision : 10-02-2017

Acts Referred:

[Limitation Act, 1963](#), [Section 5](#) -
Extension of prescribed period in certain cases

Citation : (2017) 02 RAJ CK 0050

Hon'ble Judges : Govind Mathur, G.R. Moolchandani

Bench : DIVISION BENCH

Advocate : BL Bhati, Bhom Singh Chouhan

Final Decision : Dismissed

Judgement

1. This appeal is preferred to question correctness of the judgment dated 14.03.2014 passed by learned Single Single Bench in S.B. Civil Writ Petition No. 9232/2012 affirming the award dated 28.12.2011 passed by the Judge, Labour Court, Jodhpur, in Industrial Dispute No.10/2015.
2. The appeal is barred by limitation from 554 days. An application is preferred to have condonation of the same with assertion that the delay in filing the appeal occurred as some time was taken at different departmental channels to take decision as to whether appeal is required to be filed or not.
3. The averments made in the application to seek condonation of delay are as follows:-

"(b) That the judgment was passed on 14.03.2014, and after obtaining the same, sent to the concerned officer-in-charge, who sent the file to the higher authorities of the department for taking further action in the matter.

(c) That thereafter, the matter went through different departmental channels and ultimately a decision was taken at State level on 29.10.2015 to file an appeal and the District Education Officer, Secondary Education, Jodhpur appointed as O.I.C. to file the special appeal on 10.11.2015. This letter was received by O.I.C. on 16.11.2015.

(d) That thereafter, the Officer-In-Charge of the case contacted the Government Counsel, Rajasthan High Court, Jodhpur with record of the case. The Government Counsel got prepared the special appeal/stay petition as well as application under Section 5 of the Limitation Act and therefore, the same is being filed without any further delay in the matter.

(e) That with great respect, it is most respectfully submitted that the delay caused in filing the special appeal is bonafide and due to official procedure and there is no intentional or deliberate delay on the part of the appellate and therefore, the delay caused in filing the special appeal deserves to be condoned and the special appeal deserves to be heard and decided on merit. That it is respectfully submitted that this Hon''ble Court as also, the Hon''ble Supreme Court of India from time to time,

held that looking to the official procedure, lenient view should be taken in the matter of State/Union on the point of delay and, therefore, in view of the observations of the Hon''ble Courts also, the delay caused in filing the special appeal is liable to be condoned."

4. From perusal of the contents of the application, we do not find any just reason for causing a huge delay of 554 days in filing the appeal. It is well settled that the parties seeking condonation of delay in filing the appeal is required to explain the cause of delay on day to day basis. In the instant matter, what to talk of explanation for on day to day basis, no reason as a matter of fact is given for causing delay from 14.03.2014 to 29.10.2015 the day on which a decision was taken at State level to file an appeal. Even subsequent thereto, no adequate reason is given as to why the appeal was filed on 02.01.2016 after having a decision to file appeal in the month of October,2015.

5. In entirety, we do not find any just reason to condone a huge

delay of 554 days in filing the appeal. The application under Section 5 of the Limitation Act, thus, is dismissed. In result, the appeal is also dismissed.