
(1996) 11 AHC CK 0123
In the Allahabad High Court
Case No : F.A.F.O. No. 595 of 1996

State of U.P. and Others

APPELLANT

Vs

Bhabul Singh and Others

RESPONDENT

Date of Decision : 29-11-1996

Acts Referred:

Limitation Act, 1963 — Section 5
Motor Vehicles Act, 1988 — Section 173

Citation : (1997) ACJ 1046 : (1997) 2 AWC 733 : (1998) RD 416

Hon'ble Judges : Bhagwan Din, J; B.M. Lal, J

Bench : Division Bench

Advocate : P.K. Bisaria, S.C, for the Appellant;

Final Decision : Dismissed

Judgement

B.M. Lal and Bhagwan Din, JJ.—Mr. P.K. Bisaria is heard on the question of condonation of delay in filing the appeal.

2. Admittedly the appeal has been filed beyond 135 days of the period of limitation. While explaining the delay an application u/s 5 of the Limitation Act has been filed.

3. It is contended that the Motor Accidents Claims Tribunal, Muzaffarnagar passed an award on 4.4.1996 against the appellants, State of U.P. and Ors. and an application for certified copy of the award was made on 10.4.1996. The certified copy of the award was delivered on 17.4.1996. However, the appeal is filed on 19.11.1996 and that is why the appeal became barred by limitation. Since the certified copy was delivered on 17.4.1996 the appeal could have been filed by 7.7.96 which was the last date of limitation.

4. The explanation furnished for such a long delay is that official correspondence took time, but nothing has been brought on record to suggest the action taken by the officers of the appellants for taking necessary steps to file and prosecute the appeal diligently because such a long delay requires to be explained showing

sufficient cause and good cause which has prevented the appellants to prefer the appeal well within the period of limitation. Merely making omnibus statements will not satisfy the requirements for condoning the delay. No doubt in State cases the collective responsibility of the officials/ officers is there but that itself will be no ground to condone the delay. Even the collective responsibility is required to be explained with a degree of reasonableness. The provisions of the Limitation Act do not extend any immunity relaxing the period of limitation in favour of the State Government. On the other hand the State Government is also standing on the same footing like the ordinary litigants.

5. Under the garb of collective responsibility the public servants take undue advantage by moving leisurely and in a careless manner in such matters. It is now high time that the public servants should be held personally responsible in such matters where the State exchequer suffers loss on account of their inaction in the discharge of their function as public servants. Recently in Lucknow Development Authority v. M.K. Gupta 1993 CCJ 1100 (SC), it is ruled that public officers are accountable for their negligence and misfeasance if they commit negligence in the discharge of their official duties. The concept of State immunity is diluted and thus the public servants may be liable in the damages for deliberate or injurious wrong doing. The inaction on the part of the public servants in the instant case by behaving in callous manner amounts to malicious abuse of power. In this regard it will not be out of place to state that with the change in socio-economic outlook in our democratic set-up the public servants are expected to be more attentive to their onerous duties which they must discharge diligently. If a public servant is found abusing his office either by an act of omission or commission as a consequence of which there is a loss to the public exchequer, action may be taken against such guilty public servants and therefore no public servant can arrogate to himself the power to act in a manner he likes causing loss to the public exchequer. In a democratic set-up the function of the Government is to extend all possible facilities to its citizens and that is why the State is known as a Welfare State which provides a large number of benefits to the citizens and, therefore, it is expected of the Government servants to discharge their official functions in a fair and just manner. The explanation furnished that simply after 7.7.1996 correspondence took place for obtaining sanction to file the appeal is not sufficient and well reasoned explanation warranting condonation of the delay.

6. Therefore, under the facts and circumstances narrated above, we direct the department concerned to initiate enquiry into the matter so as to find out the guilty officer/officers on account of whose inaction delay of 135 days has been caused in filing the appeal so that the accountability of the officer/officers concerned may be fixed and necessary departmental action may be taken against him or them. We may observe that this is not the first such case but almost in all the Government cases the appeals are being filed after the lapse of limitation period.

7. Since no sufficient ground or good ground has been made out for condoning the delay, therefore, the application for condoning the delay is rejected. Consequently the appeal also stands dismissed being barred by limitation.

8. The statutory deposit made under the proviso of Section 173 of the Motor Vehicles Act, i.e., Rs. 25,000/- (Rupees twenty-five thousand) be now remitted to the Tribunal for being adjusted towards the compensation and for being paid to the claimants.

9. Copy of this order be sent to the Chief Secretary, State of U.P., Lucknow for holding an enquiry and taking the necessary action against the erring officer/officers.