

(2017) 10 DEL CK 0325

In the Delhi High Court

Case No : Civil Writ Petition No. 6615 Of 2014

Union Of India

APPELLANT

Vs

Meena Kumari And Anr

RESPONDENT

Date of Decision : 13-10-2017

Acts Referred:

Citation : (2017) 10 DEL CK 0325

Hon'ble Judges : G.S.Sistani, J;I.S. Mehta, J

Bench : Division Bench

Advocate : Satyendra Kumar, Mool Chand, Suman Kapoor

Final Decision : Dismissed

Judgement

G.S.Sistani, J

C.M. No.9320/2017 (Delay)

1. This is an application filed by the applicant seeking condonation of 112 daysâ?? delay in filing the application (C.M. No. 9319/2017) for recall of the order dated 21.09.2016 passed by this Court.

2. Heard.

3. Since there is no opposition to the present application, the same is allowed. Delay in filing C.M. No.9319/2017 is condoned.

4. Application stands disposed of.

C.M. No. 9319/2017

5. This is an application filed by the review petitioner seeking recall of the order dated 21.09.2016 by which the review petition filed by the petitioner stands dismissed for non-appearance.

6. Learned counsel for the non-applicant submits that he has no objection to the

prayer made in this application.

7. Heard.

8. Having regard to the submissions made and in view of the fact that there is no opposition to the present application, the same is allowed. Order

dated 21.09.2016 is recalled. Review Petition is restored to its original number and file.

9. Application stands disposed of.

C.M. No.32164/2016 (Delay in filing) & C.M. No.32165/2016 (Delay in re-filing)

10. C.M. No.32164/2016 has been filed by the applicant seeking condonation of 416 days delay in filing the review petition and C.M. No.32165/2016

has been filed by the applicant seeking condonation of 136 daysâ?? delay in re-filing the review petition.

11. Counsel for the applicant submits that delay of 416 days in filing the review petition has occurred on account of bonafide reasons and not on

account of any negligence or inaction. Counsel further submits that the delay of 136 days in re-filing has occurred on account of the fact that the

defects could not be cleared within 30 days.

12. Counsel for the non-applicant submits that the applications lack material particulars. It is further contended that the applications do not disclose any

ground much less cogent grounds to seek condonation of delay. Counsel, thus, prays that the prayers made in these applications should be rejected.

13. We have heard learned counsel for the parties. The review petitioner seeks condonation of 416â?? days delay in filing the review petition and

condonation of 136 daysâ?? days delay in re-filing the review petition. We deem it appropriate to reproduce the contents of the application (C.M.

No.32164/2016) seeking condonation of delay:

1. That the Petitioner is filing the Review Petition against the final order dated 19.1.2015 passed by this Honâ??ble Court in W.P. (C) NO.

6615/2014, along with present application for condonation of delay in filing the Review Petition.

2. There is a delay in filing the present Review Petition.

3. The said delay in filing the Review Petition is attributable to the fact that the decision to file a Review Petition is taken after the matter is

considered at various official levels post legal opinion taken by the Ministry of

Defence & Air Force from its Advocates.

4. That the delay caused is wholly unintentional and bonafide and it is necessary in the interest of justice that the same is condoned.

PRAYER

In these premises, the petitioner most respectfully prays that this Honâ??ble Court may graciously be pleased to:-

a) Condone the delay of 416 days in filing the accompanying Review Petition against the final order dated 19.1.2015 passed by this

Honâ??ble Court in W.P. (C) No. 6615.2014; and/or

b) Pass such further order/s, direction/s as this Honâ??ble Court may deem fit in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL EVER PRAY.

14. A reading of C.M. No.32164/2016 would show that the delay is sought to be condoned on the ground that the matter was considered at various

levels, post legal opinion taken by the Ministry of Defence or Air Force from its advocates. In our view the application is not bonafide, the application

is devoid of any particulars, not a single date has been mentioned. While in all cases, each and every days delay may not be explained, but in the

present case, we find the application to be highly casual in nature. In the case of Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563,

the Apex Court held as under:

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable

and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was

kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are

under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and

should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not

be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates,

according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.

Accordingly, the appeals are liable to be dismissed on the ground of delay.â??

(Emphasis Supplied)

15. In the present case, we find that the application does not disclose any ground much less a cogent ground for condoning the delay of 416 days. The applications lack material particulars. Resultantly, C.M. No.32164/2016 stands dismissed. Consequently, C.M. No.32165/2016 seeking condonation of delay in re-filing the review petition is also dismissed. We find it strange that it took 106+30+416 days for the applicant to obtain certified copy of the order of which review is sought.

16. Both the applications are dismissed with cost of Rs.5,000/- to be paid by the applicant to the respondents.