

(2001) 10 J&K CK 0024

In the Jammu And Kashmir High Court

Case No : Civil Miscellaneous Petition LPA (OW) 478 Of 2000

Union of India

APPELLANT

Vs

SPR Karnail Singh

RESPONDENT

Date of Decision : 06-10-2001

Acts Referred:

Jammu and Kashmir Limitation Act, 1995 — Section 5

Citation : (2002) KashLJ 366 : (2001) SriLJ 446

Hon'ble Judges : Nisar Ahmad Kakru, J and S.K.Gupta, J

Bench : Division Bench

Advocate : K.L.Sharma, Advocates appearing for the Parties

Judgement

1. The respondent has unblemished service to his credit. He has earned Videsh Seva Medal also. Having participated in action in Sri Lanka, he

contracted a disease of Schizophrenia, consequently came to be rendered unfit to serve. A claim was laid by him for disability pension before the

appellant which was declined ostensibly on the ground that the disease of schizophrenia does not fall within the ambit of disability. Relying upon

the division bench judgement of this court, the learned single judge allowed the writ petition by judgement dated 17/12/1999. No appeal was taken

against the order within stipulated period, therefore, application for condonation of delay which is barred by more than five months. The application

seeking condonation did not explain the delay, therefore, permission was sought and granted for filing better and detailed affidavit which stands

filed. Its perusal reveals that authenticated copy of the judgement was received by legal cell of the appellant on 29/02/2000. No explanation even

worth the name is given for the period commencing from 29/02/2000 to 08/03/2000. Same is true for the period between 08/03/2000 to

07/06/2000. However, for explanation reliance is placed on the proceedings of the army headquarter and Ministry of Defence. Although applicant is on affidavit to say that proceedings are enclosed but fact remains otherwise and proceedings have not been attached. Again for the period between 07/06/2000 to 21/06/2000 there is no explanation. Delay for the period between 21/06/2000 to 23/06/2000 also goes without any explanation. For the period between 23/06/2000 to 30/06/2000 no explanation is given. Period between 03/7/2000 to 31/07/2000 is said to have been spent for signatures and completion of the LPA. Why and how so long a period was consumed for signatures, the applicant has not deemed it proper to say anything. Again no explanation for the period between 31/07/2000 to 17/08/2000 is shown. Apart from casual averments it is manifest that no explanation whatsoever has been given for not applying for the copy of the judgement till 21/02/2000. It is apparent on the record that notwithstanding the fact that the judgement was passed in presence of the counsel for the parties copy was not applied for till 21/02/2000 and by that date period of limitation had already expired. Explanation for the period between March, 2000 to 07/06/2000 which comes to about three months is also wanting.

2. Settled position in law is that length of delay cannot be an impediment to entertain a cause but what is required is that cause should be satisfactory which is essential prerequisite to condonation of delay as held by the apex court in P.K. Ramachandran versus State of Kerala (AIR 1998 SC227) Para 3 may be noticed:

3. It would be noticed from a perusal of the impugned order (Supra) that the court has not recorded any satisfaction that the explanation for the delay was either reasonable or satisfactory, which is essential prerequisite to condonation of delay"".

3. What emerges is that applicants have failed to explain the delay. Barring a few days, there is no explanation for months together. Thus applicants having failed to show the cause much less sufficient one we are left with no option but to dismiss this application. We accordingly do so.