
(2009) 12 DEL CK 0085

In the Delhi High Court

Case No : FAO. No. 224 of 2009 and CM No's. 9884-85 of 2009

Union of India (UOI)

APPELLANT

Vs

Smt. Inderjit Kaur

RESPONDENT

Date of Decision : 09-12-2009

Acts Referred:

Citation : (2009) 12 DEL CK 0085

Hon'ble Judges : Vidya Bhushan Gupta, J

Bench : Single Bench

Advocate : H. K. Bajpai, Proxy Counsel for V. S. R. Krishnan, for the Appellant;
Nemo, for the Respondent

Judgement

V.B. Gupta, J.—Present appeal has been filed by Union of India against judgment dated 30th August, 2007, passed by Railway Claims Tribunal Delhi (for short as "Tribunal").

2. Vide impugned judgment, respondent was awarded compensation amounting to Rs. 4,00,000/- (Rupees Four Lakhs) due to death of her husband, who died in untoward incident.

3. Along with appeal, an application for condonation of delay of 504 days has also been filed.

4. Present appeal was filed on 18th April, 2009. It came up for hearing for first time on 22nd July, 2009. On that day, Sh. H. K. Bajpai, Advocate appeared on behalf of appellant and stated that Sh. V.S.R. Krishnan, Advocate, is out of station and sought adjournment. Matter was adjourned to 8th October, 2009.

5. On 8th October, 2009, again Sh. H. K. Bajpai appeared as proxy counsel and stated that Sh. V.S.R. Krishnan, Advocate for appellant is out of station and sought adjournment. Matter was accordingly adjourned to 4th December, 2009. It was also noted that no further adjournment shall be granted.

6. On 4th December, 2009, again Sh. H. K. Bajpai, appeared as proxy counsel. At

his request, matter was passed over on the ground that Sh. V. S. R. Krishnan, arguing counsel for appellant is busy in Central Administrative Tribunal. After pass over, matter was taken up at 12.00 P.M. On second call, none was present on behalf of appellant. Since arguing counsel never appeared after filing of the appeal, judgment was reserved.

7. As there is delay of 504 days in filing of the appeal, appellant has to satisfy as to whether there are sufficient grounds for condonation of delay or not.

8. As per averments made in the application for condonation of delay, on receipt of impugned order from Tribunal, concerned opinions were taken from respective persons as is the vogue in Railway Departments. The matter was examined in the office of appellant in consultation with legal advisers and it was later on decided to challenge the impugned order by way of First Appeal against Order (FAO). The writ petition was accordingly modified and refiled in the form of FAO.

9. It is stated that in this process, there has been some delay in listing of the present FAO. This delay is attributable to challenge of the impugned order through a writ petition rather than through the present appeal. The delay was also occasioned due to the fact that before challenge to the impugned order, appellant being a Government Organisation, various approvals have to be taken, before a decision could be taken. Hence, there is delay of 504 days in filing this appeal.

10. There is nothing on record to show that initially, appellant drafted/filed any writ petition, which was later on modified and refiled in the form of First Appeal against Order (FAO). Application for condonation of delay is absolutely vague and unclear. There is no mention of any dates whatsoever. It has nowhere been specified as to what were the formalities and approvals which caused the delay and which were the various authorities concerned in this matter. No sufficient cause for this delay has been mentioned at all, in the entire application.

11. In *Ramlal, Motilal and Chhotelal Vs. Rewa Coalfields Ltd.*, , it has been observed;

It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the Court by S.5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone.

12. It is very easy to take a vague plea with regard to various approvals which are required by a Government Organisation. However, merely pleading vague defence will not serve the purpose. Appellant has to show that it had been diligent while pursuing the case.

13. In *R.B. Ramlingam Vs. R.B. Bhvaneswari*, , it has been observed;

We hold that in each and every case the Court has to examine whether delay in filing the SLP stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition.

14. No sufficient ground is at all made out for condonation of delay. Present application for condonation of delay, being without any cogent reason is not maintainable. Consequently, appeal is also not maintainable.

15. Present appeal and application for condonation of delay are dismissed with costs of Rs. 5,000/- (Rupees five thousand only).

16. Appellant is directed to deposit the costs, with Registrar General of this Court, within four weeks from today, failing which Registrar General shall recover the same in accordance with law.

17. Dismissed, being infructuous.

18. List for compliance on 12th January, 2010.