

(2008) 07 GAU CK 0007

In the Gauhati High Court

Case No : Misc. Case No. 137 of 2008 in Review Petition No. 5 of 2008 in C.R.P. No. 43 of 2000

Union of India (UOI) (Railways)

APPELLANT

Vs

Manipur Tea Trading Company

RESPONDENT

Date of Decision : 01-07-2008

Acts Referred:

Limitation Act, 1963 — Section 30, 5

Citation : (2008) 4 GLT 897

Hon'ble Judges : T. Nandakumar Singh, J

Bench : Single Bench

Advocate : J. Singh and S. Sengupta, for the Appellant; S.K. Kejriwal and S. Kejriwal, for the Respondent

Final Decision : Dismissed

Judgement

T. Nandakumar Singh, J.—The applicant/review Petitioner, by this application u/s 5 of the Limitation Act, 1963 prays for condoning the delay of 520 days in filing the review petition.

2. Heard Mr. J. Singh, learned senior counsel assisted by Mr. S. Sengupta appearing for the applicant as well as Mr. S.K. Kejriwal, learned Counsel appearing for the Respondent.

3. The discretionary power of this Court u/s 5 of the Limitation Act, 1963 for extension of prescribed period for filing an application could be exercised only when there are sufficient cause or/satisfactory explanation offered by the applicant for condonation of delay. No doubt, "sufficient cause" for condonation of delay as contemplated in Section 5 of the Limitation Act, 1963 shall be construed liberally. The question as to whether or not there is sufficient cause or/ explanation for condonation of delay is a question of facts depend on the facts and circumstances of the given case. The existence of sufficient cause or satisfactory explanatory is sine qua non for exercising the discretionary power of

this Court u/s 5 of the Limitation Act, 1963 for extension of the prescribed period for limitation. In the present case in order to explain the delay in filing the review petition, the applicant asserted the reasons and explanations for the delay in para Nos. 3,4,5,6,7,8,9 and 10 of the present Misc. application which read as follows-

3. That in the instant case the Deputy Commissioner, Hailakandi, District Cachar vide letter dated 6.7.2006 forwarded the copy of the judgment and order dated 21.3.2006 and 26.5.2006 sent letter to DRM (W) Lumding for placement of funds to disbursement of the same to the awardees. The Divisional Railway Manager (Works), Lumding forwarded the same to the Chief Engineer Construction, Guwahati on 17.7.2006, but the said letter was not received by the office of the Chief Engineer (Con.).

4. The same was received on 24.8.2006 from the office of the G M. (W) Maligaon without copy of the judgment and order under reference. The D.C. Hailakandi sent letter to the Chief Engineer Construction on 13.9.2006. But the same was received without enclosures. The Chief Engineer wrote to D.C. Hailakandi on 11.10.2006 to sent the enclosures, no reply was received but Deputy Chief Engineer Construction Silchar managed to procure photocopies of those Annexures on 16.10.2006 and accordingly file was put up to the concerned authority on 17.10.2006.

5. As per the order of the higher authority on 30.10.2006 the case was put up again on 27.12.2006 after examination.

6. That for better investigation of the case Field Unit was again reminded on 5.3.2007. Field Unit's remarks were received on 23.3.2007 and the same was put up on 27.3.2007.

7. The case was put up to law section by the Chief Engineer Construction on 27.4.2007 seeking legal opinion.

8. That the legal opinion was received on 23.5.07 and case was put up for finance vetting on the same date and finance department returned the case on 10.7.2007 without vetting.

9. That the case was received in the section on 30.7.2007 and again put up to higher authority on 2.8.2007 and the case was put up to the finance department again on 2.8.2007 for vetting. The Finance vetted the proposal on 17.8.2007 and CAO/C/MLG sanctioned the amount in part on 21.8.2007 and the Sanction Memo was issued on 23.8.2007. The case was put up to Legal Cell for submission of review petition on 5.9.2007.

10. That from 5 September 2007 to 12 of October the counsel for the Railways sought clarification, informations twice and after detailed discussions petition was made ready but again the counsel asked to explain the delay in filing the review application. In the meantime High Court remained closed from 18 October to 12 November 2007 during which period the counsel was out of station on vacations.

Thereafter from 13 November to 26th November counsel took time for drafting and vetting of both the petitions i.e. review application and condonation of delay application filing.

4. The Respondent also filed the affidavit- in-opposition contending inter-alia that the application for condonation is completely vague and the reason/explanation for the delay mentioned in the application for condonation are cryptic and also that there is no reasonable explanation or/reasonable cause for condoning the delay inasmuch as the application for condonation of delay is drafted very casually and the stereotyped. Paras 5,6,7,8,9,10 and 11 of the affidavit-in-opposition filed by the Respondent read as follows-

5. That with regard to the statements made in paragraph 3 of the application it is stated that the copies of the judgment and order dated 21.3.06 and 26.5.06 having been forwarded on 6.7.06 by the Deputy Commissioner, Hailakandi to the DRM (W) Lumding, there is no explanation as to when the same was received by the said officer and as to why the same was forwarded only on 17.7.07 to the Chief Engineer Construction, Guwahati and as to why the same was forwarded to Chief Engineer Construction when the said Officer had no role to play in the matter of disbursement of fund.

6. That with regard to statements made in paragraph 4 of the application, it is stated that there is no explanation as to where the letter dated 17.7.06 was lying from 17.7.06 to 24.8.06 and how the same was received from the Office of G.M. (W) Maligaon on 24.8.06 and as to what the Chief Engineer, Construction did during the period from 24.8.06 to 11.10.06 i.e. for about one and half month after receipt of the letter dated 17.7.06 and before writing the letter dated 11.10.06 to D.C., Hailakandi. As far as the letter dated 13.9.06 is concerned, the same was a reminder for disbursement of fund. Any way, admittedly the copy of the judgment and other annexures were received by the Railways at least on 16.10.06. From the statement made, it is absolutely vague as to with which concerned authority the file was put up on 17.10.06.

7. That with regard to the statements made in paragraph 5, it is stated that there is no explanation as to on what account the time from 17.10.2006 to 30.10.2006 was spent by die concerned authority and as to which higher authority passed the order on 30.10.2006 and as to on what account the time from 30.10.2006 to 27.12.2006 was spent and with which authority the file was put up on 27.12.2006. In the absence of any plausible/sufficient explanation for the delay, die delay cannot be condoned.

8. That with regard to the statements made in paragraph 6 of the application, it is not understandable as to of which Field Unit the reference is made in the said paragraph. However, one thing is clear that the said Field Unit had taken the order of the Hon''ble Court in a very casual manner. That is why the same necessitated the authority to remind its own so called Field Unit. But there is absolutely no explanation as to what was done by the said so called Field Unit

during the period from 27.12.2006 to 23.3.2007 in giving its remarks. It is also not clear as to with which authority the remarks of Field Unit were placed.

9. That with regard to the statements made in paragraph 7 of the application, it is stated that if it is presumed that the remarks of Field Unit were placed on 27.3.2007 with the Chief Engineer, Construction, there is absolutely no explanation as to on what account the time from 27.3.2007 to 27.4.2007 was spent by the Chief Engineer, Construction in putting the file to Law Section for legal opinion.

10. That with regard to the statements made in paragraph 8 of the application, it is stated that there is no explanation as to how the Law Section took one month in rendering its opinion only on 23.5.2007 and how the time from 23.5.2007 to 10.7.2007 was spent by the Finance Department and as to why the finance returned the said file without vetting. In the absence of any sufficient explanation for the time consumed at various levels, the delay is not condonable.

11. That with regard to the statements made in paragraph 9 of the application, it is stated that when the file was returned on 10.7.07 by the Finance Department, there is absolutely no explanation as to how the same was received by the section only on 30.7.07 and where the file was lying during the period from 10.7.2007 to 30.7.2007. There is absolutely no explanation as to what was the reason for not vetting by the Finance in the first instance and on what consideration the Finance vetted the file on 17.8.2007.

5. On conjoint reading of the present application for condonation of delay and the affidavit-in-opposition filed by the Respondent it appears that the reason for condonation of delay of 520 days mentioned in the present application for condonation of delay is so vague and cryptic.

6. In para No. 3 of the application for condonation of delay, the applicant stated that copies of the judgment and order dated 21.3.2006 and 26.5.2006 against which accompanying application for review is filed had been forwarded by the Deputy Commissioner, Hailakandi to DRM (W), Lumding for placement of fund. Nothing is mentioned in the said para as to when the said letter of the Deputy Commissioner, Hailakandi dated 6.7.2006 was received by the said officer i.e. DRM (W), Lumding and also as to why the DRM (W) sent the said letter of the Deputy Commissioner, Hailakandi dated 6.7.2006 only on 17.7.2006 without copies of the said judgment and order.

7. On perusal of the paras 4,5,6,7,8 and 9 of the application for condonation of delay, it is clear that there is no explanation as to why the said letter of the Divisional Railway Manager (Works), Lumding dated 17.7.2006 was lying in the office of Chief Engineer (Con.) from 17.7.2006 to 24.8.2006 and also nothing is mentioned as to when the Chief Engineer (Con.) forwarded the file/letters to the office of GM. (W), Maligaon.

8. There is no explanation as to why and how the Chief Engineer (Construction)

took about two months in getting the photo copies of the judgment and order dated 21.3.2006 and 26.5.2006.

9. It is stated that the Chief Engineer could manage to obtain the copy of the said order of this Court dated 21.3.2006 and 26.5.2006 only on 16.10.2006 and thereafter the file was put up to the concerned authority and surprisingly the applicant did not even mention in the application for condonation as to who was the concerned authority to whom the file had been put up by the Deputy Chief Engineer (Construction). As such it is not known from the application for condonation as to the higher authority to whom the file had been placed on 30.10.2006. Again the said higher authority took two months time for examination of the file and as such there is no reasonable explanation for the period from 30.10.2006 to 27.12.2006.

10. In the para No. 6 of the application for condonation, it is stated that the investigation of the case by the Field Unit took considerable time i.e. from 5.3.2007 to 27.3.2007. Again the applicant did not even care to mention who was the Field Unit and also when the Field Unit received the file from the higher authority whose particulars is not mentioned in the application for condonation of delay. In para No. 7 of the application for condonation of delay it is stated that the case was put up to Law Section by the Chief Engineer (Construction) on 27.4.2007 seeking legal opinion. Again the applicant did not care to mention about the Law Section and also where it locates and also as to when the Chief Engineer (Construction) received the file. It is stated that the legal opinion was received on 23.5.2007 and put up for finance vetting and the file was returned on 10.7.2007 without vetting. Again the applicant did not mention in the application for condonation of delay who was the officer concerned who gave the legal opinion and also when the file was put up to him for legal opinion and after giving his opinion when he sent the file in the Finance Department for vetting and also when the Finance Department received the file and also the reason for returning the said file on 10.7.2007 without vetting. As such there is no reasonable explanation for the period from 27.3.2007 to 10.7.2007.

11. In para No. 9 of the application for condonation it is stated that the section received the file on 30.7.2007. There is no explanation as to where the file was lying during the period from 10.7.2007 to 30.7.2007. Again, it is stated that the file was put up to the higher authority on 2.8.2008 and the case was put up to the Finance Department, again, on 2.8.2007 for vetting and also stated that the case was put up to legal cell for submission of review petition on 5.9.2007. On perusal of the para No. 9 of the application for condonation of delay it is clear that the applicant did not even disclose who was the higher authority in the legal cell and also the respective dates on which the file was received by the higher authority and also the legal cell. Therefore, the explanation is so vague and cryptic and it is clear that there is no reasonable explanation for the period from 10.7.2007 to 5.9.2007. It appears from the para 10 of the application for condonation of delay that the learned Counsel took 13 days in drafting the

review petition and also the condonation of delay but it is not clear as to when file was handed over to the counsel for drafting and also as to when the concerned authority of the applicant had discussion with the said counsel. Therefore, the reason for delay for the period from 5.9.2007 to 26.11.2007 is very vague and cannot be treated as reasonable explanation.

12. Mr. J. Singh, learned senior counsel appearing for the applicant placed heavy reliance on the decision of this Court (Division Bench, incidentally, Justice T.N.K. Singh one of the party) in *State of Manipur and Ors. v. A.K. Cycle and Allied Centre and Ors.* Facts in *A.K. Cycle and Allied Centre's Case* (supra) is diametrically different from that of the present case. Over and above the application for condonation of delay in *A.K. Cycle and Allied Centre's case* had given sufficient reasons and explanation supported by material facts and the documents for delay.

13. In *Ambica Quarry Works v. State of Gujarat and Ors.*, (1987) 1 SCC 213 Apex Court observed-

18...The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it.

In *Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others*, Apex Court observed-

59 ...It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

As held in *Bharat Petroleum Corporation Ltd. and Another Vs. N.R. Vairamani and Another*, a decision cannot be relied on without disclosing the factual situation. In the same judgment Apex Court also observed: (SCC pp. 584- 85, paras 9-12)

9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes, their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd. v. Horton* (AC at p. 761) 1951 ACC 737 Lord Mac Dermott observed (All ER p. 14-C-D).

The matter cannot, of course, be settled merely by treating the *Ipsissima verba* of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished

judge....

10. In *Home Office v. Dorset Yacht Co. Ltd.* (1970) 2 ALL ER 294 (HL) (ALL ER p. 297 g-h) Lord Reid said, "Lord Atkin's speech is not to be treated as if it were a statutory definition. It will require qualification in new circumstances." Megarry, J. in *Shepherd Homes Ltd. v. Sandham*(No. 2), (1971) 2 ALL ER 1267 observed: (ALL ER p. 127d)

One must not, of course, construe even a reserved judgment of even Russell, L.J. as if it were an Act of Parliament;"

And, in *Herrington v. British Railways Board* Lord Morris (1972) 1 ALLER 749 (HL(E)) said: (ALLER p. 761c)

There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.

11. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

Each case depends on its own facts and a close similarity between one case and *Anr.* is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of *Anr.* . To decide therefore, on which side of the line a case falls, the broad resemblance to *Anr.* case is not at all decisive.

Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path of justice clear of obstructions which could impede it.

14. Mr. S.K. Kejriwal, learned Counsel appearing for the Petitioner submits that the present case is similar with that of *Union of India and Others Vs. Wood Crafts Products Ltd. and Another*, wherein this Court (Division Bench) had rejected the application for condonation of delay of 118 days. He further contends that the present application for condonation of delay is cryptic and vague as that of the *Union of India and Ors.* (supra). Para Nos. 3,4, 14, 17, 18, 19, 23 and 24 are quoted hereunder?

3. In the instant case, in order to explain the delay in preferring the said writ appeal, the Petitioners averred the facts in paragraph No. 2 of the condonation petition which is reproduced as follows-

That the Petitioners state that the certified copy of the judgment and order dated

12.4.2000 could not be applied for immediately as the court was on holidays on account of Bihu vacation from 13th April, 2000. On reopening of the court the copy was applied for and the same was made over to the Petitioners' counsel on 2.5.2000 by the Registry. The engaged counsel forwarded the certified copy to the office of the Assistant Commissioner, Central Excise, Guwahati on 3.5.2000. The office of the Assistant Commissioner, Central Excise, Guwahati forwarded the certified copy to the Appellant/Petitioner No. 2 on 4.5.2000 and the same was received by the Petitioner No. 2 on 5.5.2000. The Petitioner No. 2 after going through the judgment was of the view that it is a fit case for filing appeal. The decision to file appeal was taken in consultation with the higher authorities. Consequently, the Petitioner No. 2 vide order dated 27.6.2000 gave approval for filing of appeal and pursuant to the said order dated 27.6.2000 made in the relevant file the office of the Petitioner No. 2 vide letter No. C/V 3(3)39/law/96/15017 dated 4.7.2000 directed the Asstt. Commissioner, Central Excise, Guwahati to prefer an appeal. The said communication was received by the Guwahati office on 7.7.2000. In this connection it would be pertinent to state that the Petitioner No. 2 also issued direction for engaging the present counsel instead of engaging the counsel who conducted the case before the learned Single Judge. Co-incidentally the present engaged counsel was out of station and returned to Guwahati on 27.7.2000. Immediately on 28.7.2000 the present engaged counsel was contacted and a request was made to prefer an appeal vide letter No. C.V. 3(3)28/Law/ACG/96/ 195 dated 24.7.2000. The engaged counsel after going through the documents instructed the departmental officers to provide some further documents/information. The additional information sought for could not be provided immediately as the Petitioner No. 2 was lying ill. However, the same was furnished to the engaged counsel vide letter No. C.V. 3(3)28/Law/ ACG/96/219-220 dated 25.8.2000. Thereafter, the engaged counsel prepared the Memo of appeal and presented the same before this Hon^{ble} Court on 1.9.2000. It would thus appear that the delay from 2.5.2000 to 25.8.2000 was on account of departmental reason and the time 26.8.2000 to 1.9.2000 was taken by the engaged counsel for preparation and presentation of the memo of appeal. In the process there has been delay of about 118 days.

4. From a bare perusal of the above mentioned statements it is noticed that the delay from 2.5.2000 to 25.8.2000 was on account of departmental note making and file pushing, showing as departmental reason and time from 26.8.2000 to 1.9.2000, was taken by the engaged counsel for preparation and presentation of the memo of appeal. Needless to mention that no acceptable explanation was forthcoming as regards the fact as to who was the highest authorities with whom, the Petitioners had consulted for the decision to prefer the appeal. This Court was also not informed as to what type of ailments the Respondent No. 2 was suffering from compelling him to lie ill. Whether he was attending the office, that was not known.

14. Under the concept of welfare State, in order to promote social justice, it is the bounden duty of the State to protect and preserve the public interest and

public fund. Since public exchequer is incurring heavy expenses on the different departments of the State and its instrumentalities, it is incumbent upon them to be fast and prompt in discharging their duties and in carrying their responsibilities with due diligence. If there is good case on merit and the application for condonation of delay, unintentional or otherwise, filed by the State is not allowed, it is certain that damage will be caused to the public interest and public fund. Unfortunately, the officers of the State and its instrumentalities carry an impression that with each and every case, the delay caused in filing an appeal is bound to be condoned, taking it for granted on the basis of a few decision where the delay has been condoned considering the facts of those cases where sufficient causes were shown and proved.

17. Section 5 of the Act gives the court a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion should be exercised and upon principles which are well understood.

18. It is correct that no hard and fast line can be drawn as to what afford "sufficient cause" in a given case, where sufficient cause shown or not, depend upon the fact of the case. In the instant case, "sufficient cause" is missing.

19. I have given my thoughtful considerations to the submissions of the learned Counsel of both sides. On careful consideration of the statements made in the condonation petition, the strenuous arguments of both sides and on the basis of the authorities of the Apex Court, we are unable to place any credence to the explanations put forward by the Petitioners. Therefore, we unhesitatingly hold that the delay has not been satisfactorily accounted for. Whatever liberal interpretation we may try to put on the word "sufficient cause" on account for to have liberal explanation in view of the provisions of Section 5 of the Limitation Act for exercise of discretion, it will be impossible for me having regard to the facts of this case to hold that there is any "sufficient cause" shown by the Petitioners. As such, I am inclined to hold the present explanation as being incapable of furnishing a judicially accepted ground for condonation of delay.

23. We do not want to go into the question as to what further documents or information was necessary for preparing the memorandum of appeal. It is a matter of common knowledge that a Writ Appeal is filed on the basis of the pleadings in the writ petition, in the written statement, rejoinder and the documents attached by the parties to the writ petition. In view thereof, it could not successfully be explained that the delay from 2.5.2000 to 25.8.2000, can be attributed to be a valid explanation on account of departmental reasons. The matter has been dealt with by the officers in a most casual manner presuming that whatever be the delay, the same would be condoned for the mere asking.

24. It is in the aforementioned factual position that the ratio of law laid down by the Hon'ble Supreme Court in P.K. Ramachandran Vs. State of Kerala and Another, comes into play. It has been held in P.K. Ramchandran (supra) that the law of limitation has to be applied with all its rigours prescribed by the statute

and that courts have no power to extend the period of limitation on equitable grounds. The Apex Court in P.K. Ramchandran (supra) was dealing with a situation where the explanation was offered by the State that at the relevant time, the Advocate General's office was fed up with many arbitration matters pending consideration. The delay was condoned by the High Court of Kerala. The Apex Court while reversing the judgment of the Kerala High Court, held that such an explanation would hardly be reasonable, satisfactory or even proper explanation. The aforesaid case, in my considered view, is squarely applicable to the facts of the instant case and, therefore, while agreeing with my brother, Mr. A.H. Saikia, J, I also order dismissal of the application for condonation of delay.

The Misc. Case is thus dismissed.

15. The ratio laid down in Union of India and Ors. v. Wood Crafts Product Ltd. (supra) is also followed by this Court (Division Bench) in the case of State of Mizoram and Anr. v. V.S. Pillai and Anr. reported in 2005 (4) GLT188. Para Nos. 2, 8, 9 and 10 are quoted hereunder-

2. This is an application u/s 5 of the Limitation Act, 1963 seeking condonation of delay of 103 days in preferring the belated writ appeal being W. A. No. 3/05. The delay has been explained in paragraph 2 of the Misc. application which reads as under:

2. That there is however some delay in filing the writ appeal and the circumstances leading to delay may be explained as below:

(i) That after the judgment and Order was delivered by the learned Member, MACT, Aizawl Single Judge on 1.10.04, a certified copy of the same was applied on 7.10.04 and it was made available by the Registry of this Hon'ble Court only on 18.11.04.

(ii) That upon obtaining the certified copy of the judgment and order, the Govt. Advocate forwarded the same to the applicants on 22.11.04 and the applicants upon receiving the same immediately processed the matter as necessary formalities in the working of the Govt, would require both for complying with the judgment and Order and at the same time looked for avenues or the feasibility to prefer an appeal. The case was placed and examined at different levels of the departments involved and at the same time the advise of the Law and Judicial Department was sought.

(iii) That ultimately upon careful examination and processing of the matter, it was decided that an appeal should be preferred against the said judgment and order and for which, the Govt. Advocate was communicated on 9.2.05 by the applicants, requested him to prefer an appeal against the said judgment and order. The deponent at this stage would like to state and submit that between 19.11.04 and 7.2.05 there were only 50 working days and as many as 31 Gazetted Holidays. That Christmas and New Year Festival/Vacation also took place during the said period. Moreover since the judgment and order required an

in-depth study and consultation at various levels which was invariably a time consuming process, the delay in preferring the connected appeal has occasioned. The Govt. Advocate upon receipt of the instructions of the applicants took 14 days time on his part to study, draft and prepare the appeal and consequently, there has been a delay of 103 days altogether.

8. It is correct that Court should be liberal in cordoning the delay in filing the appeal but the delay is implausible unless sufficient cause is shown. One should not be under illusion that when the Government or any other authority seeks condonation of delay by filing application, the court must invariably condone the delay irrespective of whether the delay has been sufficiently explained or not. Refusal of such prayer for condoning the delay may be treated as harsh to the Petitioner but in construing the provisions of law relating to limitation and equitable consideration of hardship are out of place.

9. A Division Bench of this Court in case of Union of India and Others Vs. Wood Crafts Products Ltd. and Another, in paragraph 14 held as under:

14. Under the concept of welfare state, in order to promote social justice, it is to preserve the public interest and public fund. Since the public exchequer is incurring heavy expenses on the different departments of the State and its instrumentalities, it is incumbent upon them to be fast and prompt in discharging their duties and in carrying their responsibilities with due diligence. If there is a good case on merit and the application for condonation of delay, unintentional or otherwise, filed by the State is not allowed, it is certain that damage will be caused to the public interest and public fund. Unfortunately, the officers of the State and its instrumentalities carry an impression that with each and every case, the delay caused in filing an appeal is bound to be condoned, taking it for granted on the basis of a few decisions where the delay has been condoned considering the facts of those cases where sufficient causes were shown and proved.

10. Having regard to the above cited cases and also upon hearing the learned Counsel for the parties, this Court is disinclined to accept the explanations so set out in the above mentioned paragraphs as no sufficient cause has been shown therein seeking the condonation and accordingly the prayer for condonation of delay is rejected.

In the result, Miscellaneous Case stands dismissed. No costs.

16. The Apex Court in C.W.T. v. Amateur Riders Club held that there is a point beyond which the court cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference and also the application for condonation of delay supported by a stereotyped affidavit and also where the explanation of delay are only the dates of movement of documents between the office concerned and the counsel. After such finding, the Apex Court rejected the application for condonation of delay of 264 days.

17. The Apex Court again in *State of Rajasthan v. Nav Bharat Construction Co.* reported in (2005) 11 SCC 797 considered the application for condonation of delay wherein the reason for explanation of delay are completely vague inasmuch as the reason for delay was due to long strike of Government employee, but in the application for condonation of delay there was no mention as to when the strike commence and terminated. The Apex Court rejected the said application for condonation of delay only on the ground that the reasons for explanation of delay are very vague. Para Nos. 20 and 21 of SCC in *State of Rajasthan* (supra) reads as follows-

20. Civil revision petition filed by the State of Rajasthan against the order rejecting objection u/s 30 of the Act was dismissed by the High Court by the impugned order dated 21.12.2000 on the ground that revision was barred by limitation and there was no sufficient cause to condone the delay u/s 5 of the Limitation Act.

21. We have perused the impugned order whereby application seeking condonation of delay was rejected and the revision petition was dismissed as barred. The cause for the delay stated was long strike of Government employees. In the application seeking condonation of delay there was no mention as to when the strike commenced and terminated. The application was completely vague and the High Court committed no error in rejecting it. We find no ground to interfere with the said order. Civil Appeal No. 8053 of 2001 is, therefore, dismissed.

18. The Apex Court in *P.K. Ramachandran Vs. State of Kerala and Another*, held that the order of condonation of delay without proper explanation offered by the State Government cannot be sustained. Para Nos. 5 and 6 of AIR in *P.K. Ramchandran* (supra) reads as follows-

5. This can hardly be said to be a reasonable, satisfactory or even a proper explanation for seeking condonation of delay. In the reply filed to the application seeking condonation of delay by the Appellant in the High Court, it is asserted that after the judgment and decree was pronounced by the learned Sub-Judge, Kollam on 30.10.1993, the scope for filing of the appeal was examined by the District Government Pleader, Special Law Officer, Law Secretary and the Advocate General and in accordance with their opinion, it was decided that there was no scope for filing the appeal but later on, despite the opinion referred to above, the appeal was filed as late as on 18.1.1996 without disclosing why it was being filed. The High Court does not appear to have examined the reply filed by the Appellant as reference to the same is conspicuous by its absence from the order. We are not satisfied that in the facts and circumstances of this case, any explanation, much less a reasonable or satisfactory one had been offered by the Respondent-State for condonation of the inordinate delay of 565 days.

6. Law of limitation may harshly affect at particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to

extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs.

19. From the ratio laid down by the Apex Court as well as this Court in the cases discussed above, it is crystal clear that discretionary power of this Court for extension of the prescribed period of limitation of the concerned application or appeal u/s 5 of the Limitation Act, 1963 could be exercised only when there are reasonable explanation or/sufficient cause as contemplated in Section 5 of the Limitation Act.

20. It is also fairly well settled that the question as to whether or not there is sufficient cause or/reasonable explanation for condonation of delay is to be decided on the facts and circumstances of the given case. In the present case as discussed above, this Court is of the considered view that there is no reasonable explanation or/sufficient cause for condoning the delay of 520 days in filing the accompanying review petition. Accordingly, the present application for condonation of delay is devoid of merit and hereby dismissed.