
(2025) 12 DEL CK 1847

In the Delhi High Court

Case No : Letters Patent Appeal No.782 Of 2025, Civil Miscellaneous Application Nos. 80800, 80801, 80879 Of 2025

Union Of India

APPELLANT

Vs

Gp Capt Suresh Khanna

RESPONDENT

Date of Decision : 22-12-2025

Acts Referred:

Code of Civil Procedure, 1908 — Section 151
Limitation Act, 1963 — Section 5

Citation : (2025) 12 DEL CK 1847

Hon'ble Judges : Devendra Kumar Upadhyaya, CJ;Tushar Rao Gedela, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Tushar Rao Gedela, J

CM APPL. 80802/2025 (Delay)

1. This is an application filed on behalf of the appellant/Union of India under section 151 of the Code of Civil Procedure, 1908, seeking condonation of 889 days in filing the appeal.

2. Learned counsel for the appellant submits that the impugned order dated 22.05.2023 was received on 29.05.2023 and was thereafter processed through the Legal Cell, JAG Branch and the Ministry of Defence (hereinafter referred to as "MoD") in accordance with the prescribed procedure. Though an initial opinion favoured implementation, upon reconsideration the MoD directed filing of an appeal to safeguard Government policy and to avoid creation of an erroneous precedent. He further submits that, in the interregnum, the respondents filed a contempt petition, which was duly contested by the appellants, evidencing their bona fide conduct. The Letters Patent Appeal could not be filed earlier as the concerned Government counsel was elevated as a Judge in January 2025, a circumstance beyond the control of the appellants. Immediately thereafter, a new

Government counsel was appointed and the present appeal has been filed without any deliberate or intentional delay.

3. On the other hand, learned counsel for the respondents submits that the appellant has not complied with the impugned order dated 22.05.2023 passed by the learned Single Judge till date, and that a contempt has been filed in this regard. He further submits that the respondent herein has reached heavenly abode.

4. We have heard the learned counsel for the parties.

5. It is trite that the Courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period provided the proposed appellant is able to establish "sufficient cause" for not filing it within time. The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc.

6. The reasons attributed to seek condonation of delay in filing the accompanying appeal appear to be only a routine manner in which the concerned file had travelled from one authority to the other. In substance a delay of more than 2 years 5 months i.e. 889 days were to be explained sufficiently to the satisfaction of the Court. "Sufficient cause" would encapsulate within itself justifiable reasons which may have caused the delay. The explanation provided by the applicant only explains the movement of the file without explaining, "sufficient cause" for such delay. Peculiarly, it is also revealed that the legal opinion of LA (Def) and JAG branch vide the note dated 13.09.2023, opined the implementation of the order as filing further appeal would lead to unnecessary expenditure upon the state exchequer. Infact, vide order dated 30.09.2023, the MoD (DoESW), directed implementation of the order. It appears that thereafter the file was yet again placed before the MoD for reconsideration of the case and which resulted in filing by the appeal and so on and so forth.

7. We are not satisfied at all that there is any cause much less "sufficient cause" to condone the delay of 889 days, which in our opinion, is substantial.

8. It is trite that State has no special status before the Courts in matters of seeking condonation of delay and is treated like any other litigant seeking such condonation. We are fortified in our view by the ratio laid down by the Hon'ble Supreme Court in State of W.B. vs. Administrator, Howrah Municipality: (1972) 1 SCC 366. In that, the Hon'ble Supreme Court had held that irrespective of whether the litigant is a Government entity or a private person, the provisions of law applicable are the same and as such, same consideration that is shown by Courts to a private party when he claims the protection of Section 5 of the Limitation Act should also be adopted towards the State. It held that the expression "sufficient cause" cannot be construed too liberally, merely because the party is the Government and the Courts are not bound to readily accept

whatever has been stated on behalf of the State to explain the delay. (Also See: Union of India vs. Jahangir Byramji Jeejeebhoy: 2024 SCC OnLine SC 489)

9. In view of the aforesaid, the application seeking condonation of 889 days in filing the appeal is rejected and hereby dismissed.

LPA 782/2025

10. It is a well settled proposition of law that while deciding an application for condonation of delay, the Court is required to confine itself solely to examining whether sufficient cause has been shown for the delay and ought not to enter into the merits of the case. The Hon'ble Supreme Court in State of Jharkhand & Ors. vs. Ashok Kumar Chokhani & Ors.: (2009) 2 SCC 667, has categorically held that consideration of merits at the stage of deciding a delay application is impermissible and unsustainable in law. The Court observed that merits can be examined only after the delay is condoned and the appeal is entertained, and any adjudication on merits prior thereto vitiates the order. Thus, once the application for condonation to delay is rejected, the merits of the appeal cannot and ought not to be looked into. This precedent has been followed till date. (See: Pathapati Subba Reddy vs. Special Deputy Collector (LA): (2024) 12 SCC 336)

11. Consequently, the appeal is also rejected.

12. Pending applications also stand disposed of.