

(2012) 05 NCDRC CK 0080

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

CHIEF MEDICAL
OFFICER

APPELLANT

Vs

Laloo Singh S/o Late
Mathura Singh

RESPONDENT

Date of Decision: May 22, 2012

Citation: 2012 0 NCDRC 178 : 2012 3 CPJ 144 : 2012 3 CPR 6

Hon'ble Judges: J.M.Malik , Suresh Chandra J.

Advocate: Rajeshwar Singh

Judgement

1. THE key question, which falls for consideration is, "whether the delay in filing this revision petition is liable to be condoned" THE State Commission had decided the case vide judgment dated 15.07.2009. This revision petition was filed on 06.05.2011. According to the petitioner he filed a Writ Petition bearing No. 4091 of 2009 before the Hon"ble High Court of Calcutta against the impugned order dated 15.07.2009. On 19th April 2010, the Hon"ble High Court Calcutta dismissed the Writ Petition of the revisionist. THE petitioner filed an application for getting a certified copy on 20.04.2010 and the same was delivered by the copying agency on 10.05.2010.

2. IT is also explained that due to administrative exigency and also to get approval from the headquarter authorities at Calcutta and thereafter the meeting with the Advocate for the preparation of memorandum of revision and getting it legally vetted at Calcutta and New Delhi involved a number of working days. Then there was lack of proper communication between the authorities and their counsel. The administration did not have proper knowledge about the movement of the revision

petition and due to all these reasons, the delay occurred.

We have heard the learned counsel for the petitioner at the time of admission of this case. He reiterated the above said arguments. We are not impressed by the arguments raised by the counsel for the petitioner. There is a delay of 554 days. The learned counsel for the petitioner admitted that the Hon"ble High Court did not condone the delay of time taken before the Hon"ble High Court and the Hon"ble High Court did not direct the petitioner to pursue the case before the proper Forum. Each day's delay is also not explained. As the Writ Petition before the High Court was dismissed on 19.04.2010, no effort was made to file application within the period of 30 days from the date of disposal of Writ Petition by the Hon"ble High Court on 19.04.2010. It is clear that the petitioner has failed to produce sufficient cause of delay in filing this revision petition. It is abhorrent from the principles of law to erase the question of sufficient cause as per section 5 of the Limitation Act on the point of sympathy and generosity. This view is also supported by the following authorities:-

"Recently, Supreme Court in *Anshul Aggarwal v. New Okhla Industrial Development Authority*, IV (2011) CPJ 63 (SC), laid down that:

" It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras."

3. IN *R.B. Ramlingam v. R.B. Bhavaneshwari*, I (2009) CLT 188 (SC)=I (2009) SLT 701=2009 (2) Scale 108, it has been observed:

"We hold that in each and every case the Court has to examine whether delay in filing the special appeal leave petitions 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."

In *Ram Lal and Others v. Rewa Coalfields Ltd.*, AIR 1962 Supreme Court 361, it has been observed;

"It is, however, necessary to emphasize 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 discretionary jurisdiction vested in the

Court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condonation has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bonafides may fall for consideration; but the scope of the inquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant."

4. IN view of the foregoing, the revision petition is hereby dismissed as bared by time, with no order as to cost.