

UNREPORTED

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 107/2007

% Date of Decision: 18th February, 2008

D.T.C. Appellant
Through: Mr. Sumeet Pushkarna and
Mr. Jitendra Kumar, Advocates
versus
SHRI RAM PHAL Respondent
Through: Mr. Pradeep Kumar, Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

% **18.02.2008**

: **DR. MUKUNDAKAM SHARMA, CJ. (ORAL)**

CM No.1806/2007 (condonation of delay)

1. This is an application filed by the appellant praying for condonation of delay of 347 days in filing the present appeal. The impugned judgment and order as against which the present appeal was filed was passed on 23.12.2005. Admittedly, the counsel appearing for the DTC applied for a certified copy and received the same on 28.01.2006. It is also stated in the application filed by the appellant praying for condonation of delay that the certified copy of the order was also forwarded to the appellant by the contesting Advocate with the advise that the appeal should be filed. Yet, no such appeal was filed immediately and the same

ultimately came to be filed in this Court only on 18.12.2006. Then also, there were certain objections which were pointed out to the appellant and the appeal was finally refiled on 2nd January, 2007, whereafter it was again taken back and finally it was filed on 2nd February, 2007.

2. We have perused the application filed by the appellant wherein reasons have been given praying for condonation of delay. On going through the records, however, we do not find that any particulars in support of the reasons have been set out in the application. In fact, the ground taken and the reasons given for the delay appear to us to be an afterthought. The delay is sought to be explained on account of procedural matters, which, in our considered opinion, would not sufficiently explain the delay as required under the law and as settled by the various decisions of the Supreme Court. We refer to the decision of the Division Bench of this Court in **General Manager, Northern Railway vs. Vishwa Nath Nangia** reported in 198 (2005) DLT 286 wherein the Division Bench of this Court has held as follows:

“.....Counsel for the applicant further submits that the petitioner being a Government body, a liberal approach should be taken by the Court. Law of limitation remains the same whether it is a Govt. or a private party. What has to be noticed is whether the delay has been caused on account of some procedural matter or on account of the department being too unwieldy. The impugned order having been passed on 22.4.2004, the reasons for condoning the delay has not been explained. If there is a private party before us, we expect delay of each day to be explained so that sufficient cause is shown for

not filing the petition in time. In the present case before us, in paragraph 5, what to talk of any specific dates, the reasons given are too vague and general....."

3. On going through the records we are satisfied that there is no proper explanation of the delay of as long as 347 days in filing the present appeal. The stand taken is that there was delay in giving effect to the order of the learned Single Judge and of the Industrial Adjudicator of reinstating the workman. We do not consider this reason enough for withholding of filing of the appeal, for, if the appellant desired to file an appeal, they could have filed the appeal without his reinstatement seeking for stay of the judgment, which is also filed and is on record as of now.

4. In that view of the matter and considering the facts and circumstances of the case, we are of the considered opinion that the appellant has been careless and negligent in filing the present appeal. Delay of the aforesaid nature cannot and should be condoned. Consequently, the application seeking for condonation of delay is dismissed.

LPA 107/2007 and CM No.1805/2007 (stay)

Consequently, LPA 107/2007 and CM No.1805/2007 also stand dismissed.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 18, 2008/km