

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPA No. 3/2022
CM Nos. 568/2022, 569/2022

1. U.T. of J&K i.e., State of J&K Petitioner(s)/Appellant(s)
through Commissioner Secretary to Govt.,
Department of School Education,
Civil Sect. J&K Jammu/Srinagar.
2. Director School Education, Jammu.
3. Chief Education Officer, Samba.
4. Zonal Education Officer, Samba.

Through :- Mr. Bhanu Jasrotia, GA

V/s

Neetu Jasrotia Aged 39 years Respondent(s)
W/o Sh. Rajesh Singh
R/o Village Chak, Manga Rakwal,
Tehsil and District Samba

Through :- Mr. Abhinav Sharma, Sr. Advocate with
Mr. Abhirash Sharma, Advocate

**CORAM: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER
24.11.2023

Tashi Rabstan, J:

CM No. 568/2022 (Delay condonation application)

1. Instant application has been filed by the applicants-UT seeking condonation of delay of 838 days in filing the accompanying appeal against the order dated 02.08.2019 passed by the learned Single Judge in WP(C) No. 2890/2019 titled "Neetu Jasrotia v. State of J&K and ors" whereby the respondents/appellants herein were directed to treat the petitioner as having been appointed w.e.f 01.06.2015 and pass appropriate order as may be required with a period of six weeks.

2. It is averred in the application that the copy of the judgment was received in the office of the applicant No. 2 on 19.08.2019 and the same was accordingly forwarded to the applicant No. 1 on 28.02.2020 for seeking instructions. Further, the applicant No. 2 vide communication dated 09.11.2020 requested the applicant No. 3 to furnish a report and accordingly the applicant No. 3 vide communication dated 10.11.2020, received on 30.01.2021 in the office of Directorate of School Education Jammu, submitted the report. Subsequently, the matter was referred to the Law Department, which accorded sanction for filing the appeal vide Sanction Letter dated 11.11.2021, which was received by the applicant No. 2 on 30.11.2021.

3. It is further averred that the applicant No. 2 vide communication dated 01.12.2021 requested the applicant No. 3 to immediately approach the learned Advocate General, but in the mean time the applicant No. 2 again vide communication dated 11.12.2021 requested the applicant No. 3 to furnish the action taken report in the matter; the applicant No. 3 requested the applicant No. 4 to do the needful in this regard; the applicant No. 4 furnished photo copy of the judgment and writ petition to the learned Advocate General on 22.12.2021. That the learned counsel sought certain information/clarification from the department vide communication dated 24.12.2021, which was furnished to him by the representative on 06.01.2022 and thereafter the learned Advocate General took two days to prepare/draft the appeal and the same was accordingly sent to the Administrative Department for vetting and appointment of OIC vide communication dated 07.01.2022. That the Administrative Department vide communication dated 21.01.2022 requested the learned Advocate General to file LPA duly vetted by the department through concerned OIC. Further averred that the Govt. appointed Dr. Ravi

Shankar Sharma, the Director of School Education Jammu as OIC vide order dated 24.01.2022, which was received by the learned Advocate General on 25.01.2022, who requested the applicants for providing the records and relevant dates for explaining the delay in preferring the LPA; the relevant file of the department was made available on 27.01.2022. That the learned counsel took one day for preparing the application for condonation of delay, which was sent along with LPA and other documents for signatures on 28.01.2022 and ultimately application for seeking condoning the delay in filing the appeal has been filed before this Court on 29.01.2022.

4. In support of the case, learned counsel for the applicants has submitted that the delay caused in this case is not deliberate or intentional but incidental as the delay is caused on account of the departmental procedures involved in for filing the appeal. It is also submitted that matters relating to the Government are required to be considered at various levels and then only a decision is taken to file the appeal. The process of referring the particular file from one department to another is time consuming and decisions have to be taken collectively and hence, the delay deserves to be condoned.

5. On the other hand, learned counsel for the respondent has shown strong reservations in case the delay is condoned and submitted that delay caused in approaching the court is huge, unexplained and the reasons given for delay are nothing but charade.

6. Heard learned counsel for the parties.

7. The averments made in the application clearly reveals that the applicants/appellants were not serious in filing the appeal as the sanction for filing the appeal has been granted by the Law Department on 11.11.2021, but the applicants took more than two months for filing the appeal, i.e. on

29.01.2022. Also, the judgment has been passed after hearing learned counsel for both the parties and not in absence of learned counsel for the respondents/appellants herein, but the appellants have not bothered to file the appeal in due time. The appellants-UT, for instance, have given reasons which only show that they have proceeded in the matter in a perfunctory manner and excessively adhered to the formalities. No cogent and plausible grounds have been taken in the application which would entail delay in filing the appeal and the application has been drafted in a very casual and vague manner.

8. It is trite that delay in filing appeal after the statutory period of limitation prescribed cannot be condoned as a matter of course. The party seeking condonation of delay was required to satisfy the Court that there was sufficient cause justifying condonation of delay. Merely saying that the delay was on account of procedural aspect, is not a sufficient cause to condone the delay.

9. Hon'ble the Supreme Court while dismissing *SLP (Civil) Diary No(s).19846/2020* titled as *Union of India Vs. Central Tibetan Schools Admin & Ors.*, on 04.02.2021 on account of delay observed as under:-

“We have repeatedly being counselling through our orders various Government departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the legal department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect

and that the present matter should have been brought up, really takes the cake!

The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No. 22605/2020 decided on 11.01.2021].....”.

10. Having regard to above referred judgment, it suggests that the applicants-UT has perceived delay as a non serious matter and its lackadaisical tendency is exhibited by its nonchalant manner in which the appellant has pursued the matter and allowed the file to move from table to table for months together.

11. In view of the facts and circumstances of the case, observations made hereinabove and the settled law position, we are not satisfied with the explanation given by the applicants/UT for condoning the delay. The application seeking condonation of delay is dismissed.

Whether the order is speaking? : Yes/No

Whether the order is reportable? : Yes/No

