

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

RP No.37/2019
CM No.4723/2019

Principal Secretary to Government Estates
Department and others

....Petitioner(s)/Appellant(s)

Through :- Mr. K.D.S Kotwal, Dy. AG.

V/s

Ashok Kumar Sadhotra and others

....Respondent(s)

Through :- Respondent No.1 present in person.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

ORDER
27.03.2023

(Oral)

CM No.4723/2019

1. Instant application has been filed by the applicants/appellants seeking to condone the delay of 76 days in filing the accompanied review petition against the order/judgment dated 04.02.2019 passed in condonation of delay application bearing CDLSW No.10/2019 in case title '*State of J&K and Others Vs. Ashok Kumar Adhotra and Another*'.

2. Mr. K.D.S Kotwal, learned Dy. AG appearing for the applicants-appellants has vehemently argued that the delay in filing the appeal on the part of the applicants is neither intentional nor willful.

3. It is contended that after obtaining certified copy of the judgment on 12.02.2019, the matter was examined and processed at different levels and finally the Law department has advised the applicants to file review petition vide communication dated 05.03.2019. Even after instructions from the Law department, the review petition was filed on 29.05.2019 by the applicants. Thus,

this application has been drafted in a very vague manner and no plausible explanation warranting condonation of delay has been made.

4. The law on the subject regarding Section 5 of the Limitation Act is no more res integra in view of the decisions rendered and delivered by the Hon'ble Apex Court on the said subject.

5. It is established that the law being limitation has to be applied with all its rigor prescribed by a statute. Although Section 5 of Limitation Act provides for extension of the period of limitation in certain cases, and appellant/applicant seeking such extension is required to satisfy the court that there has been a sufficient cause for not preferring the appeal or making the application within the prescribed period.

6. A reference to the judgment of the Hon'ble Apex Court reported in **AIR 1998 SC 2276**, titled as '**P.K. Ramachadran v. State of Kerala**' would also be appropriate and advantageous, wherein at para 6 following is noticed.

"6. Law of limitation may harshly affect a 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."

7. The Hon'ble Apex Court in '*Perumon Bhagyathy Devaswam vs. Bhargavi Amma*', 2008 (8) SCC 321, at para 13 (iii) enunciated besides others the following principle qua an application under Section 5 of the Limitation Act:

“The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation.”

8. 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].....”.

9. The application in hand apparently, is filed with the impression that in seeking condonation of delay, the expression 'sufficient cause' would receive as liberal construction in favor of the applicants. It is however, manifest and without any doubt that the explanation offered by the applicants in the application in hand cannot by any sense of imagination said to be sufficient, plausible, and cogent. The explanation per se is cryptic and casual.

10. Viewed in the context what has been observed, considered and analyzed hereinabove, the application in hand is found to be without any merit and is, accordingly, **dismissed**.

11. Consequently, the accompanying review petition bearing RP No.37/2019 is also dismissed.

Jammu:
27.03.2023
Surinder

(Rajesh Sekhri)
Judge

(Tashi Rabstan)
Judge

Whether the order is speaking?
Whether the order is reportable?

Yes/No
Yes/No