

Court No. - 23

Case :- FIRST APPEAL FROM ORDER DEFECTIVE No. - 64 of 2022

Appellant :- Union Of India Thru. General Manager,Northern Railway Baroda House,New Delhi

Respondent :- Chandan Maurya

Counsel for Appellant :- Mahendra Kumar Misra

Counsel for Respondent :- Manish Kumar Srivastava,Saroj Kumari

Hon'ble Ajay Bhanot,J.

The appeal arises out of the judgement and award dated 27.10.2017 rendered by learned Railway Claims Tribunal, Lucknow in Case No. OA/II/U/293/10, (Chandan Maurya Vs. Union of India) as well as the order dated 13.04.2022 rejecting the recall of the appellant.

An ex-parte award was handed down against the appellant by the learned Tribunal on 27.10.2017. The appellant filed a recall application on 15.02.2018. The recall application was rejected by the learned Tribunal on 13.04.2022. The appellant is in appeal against the award as well as the order rejecting the recall application.

Negligence in prosecuting the case on part of the Railways is established from the record. The Railway Authority-appellant had been duly served notice and their counsel had entered appearance. Thereafter, because of changes in the panel, the learned counsel

stopped appearing. The learned trial court consequently proceeded ex-parte. Thereafter, the Railways again woke up and started prosecuting the case before the learned Tribunal.

The aforesaid cause for delay is being condoned only in substantive interest of justice. However, the Court cannot be blind to the fact of negligence by the Railway Authorities. A litigant cannot be drawn into repeated orbits of litigation because of the negligence of State Authorities. The Railway Authorities are under an obligation of law and have a responsibility to the citizenry at large being an instrumentality of the Government of India. Negligence of the Railways will be compensated by fixing appropriate costs.

The claimant is entitled to cost Rs.50,000/- which shall be paid within a period of two weeks. In case, the costs are not deposited within a period of two weeks, this order shall stand recalled automatically without recourse to the Court and the appeal shall be treated as dismissed.

The other consideration which is weighing in this Court is that substantive rights of parties have to be adjudicated on merits as per law.

In this wake, the Court finds the impugned order being ex-parte is liable to be set aside. The impugned judgement and award dated 27.10.2017 rendered by learned Railway Claims Tribunal, Lucknow in Case No. OA/II/U/293/10, (Chandan Maurya Vs. Union of India)

is hereby set aside. Similarly, the order dated 13.04.2022 rejecting the recall application is also liable to be set aside and is set aside.

Considering the long pendency of the matter, interests of justice will be served by directing the learned Tribunal to expeditiously decide the case in a definite time frame.

Learned Tribunal is directed to proceed with the case on a day to day basis and under any circumstances, render its final award within a period of three months from the date of receipt of a certified copy of this order.

The parties to the lis are directed to cooperate in the proceedings before the learned Tribunal and shall not seek any adjournment.

The appeal is allowed to the extent indicated above.

Order Date :- 23.3.2023

Gurpreet Singh