

GAHC010017722019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/322/2019
in MFA/140/2019

THE EMPLOYEES STATE INSURANCE CORPORATION AND 2 ORS
REPRESENTED BY ITS REGIONAL DIRECTOR, NORTH EASTERN REGION,
REGIONAL OFFICE, BAMUNIMAIDAM, GUWAHATI 21

2: THE ASST. DIRECTOR
ESIC
REGIONAL OFFICE
BAMUNIMAIDAM
GUWAHATI-21

3: RECOVERY OFFICER

ESIC
NER
BAMUNIMAIDAM
GUWAHATI-2

VERSUS

M/S HIMALAYA PRINTERS AND 6 ORS
MILANPUR, CHANDMARI, P.S. CHANDMARI, GUWAHATI 21, KAMRUP (M),
ASSAM.

2: RANJIT KUMAR SAIKIA
S/O LATE TARUN CHANDRA SAIKIA
R/O MILANPUR
CHANDMARI
P.S. CHANDMARI
GUWAHATI-21
KAMRUP (M)

3: KULEN MEDHI
R/O CHENGA

DIST. AND P.O. BARPETA
ASSAM.

4:SMTI KAMALA BORO
R/O HAZARIKAPARA
P.O. GORESWAR
DIST. UDALGURI
ASSAM.

5:DIPENDRA NATH ROY
R/O HEPALI CHOWK
NOONMATI
GUWAHATI-20
ASSAM.

6:SMTI RINA DUTTA
R/O SALBARI
NOONMATI
GUWAHATI-20
ASSAM.

7:IMRAN ALI
R/O BAHARI
DIST. AND P.O. BARPETA
ASSAM.

8:RAMANI DEKA
R/O HAZARIKA CHOWK
P.O. SIPAJHAR
DIST. MANGALDOI
ASSAM.

9:HALADHAR DAS SHARMA
R/O RUPNAGAR
GUWAHATI
KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. K K NANDI

Advocate for the Respondent : MR. R SARMA

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

24.06.2024

Heard Shri M. Smith, learned counsel for the petitioners, who by means of this petition filed under Section 5 of the Limitation Act 1963 has prayed for condonation of delay of 801 days in preferring the connected appeal.

The appeal has been preferred against a judgment and order dated 24.08.2016 passed by the learned E.I. Court in ESI Case No. 4/2014.

Notices were issued on 01.02.2019 whereafter the respondents had entered appearance. However, no counsel has appeared today in spite of the names reflected in the cause list.

The learned counsel for the petitioners by referring to the averments made in paragraphs 3 & 4 has submitted that because of some office formalities and also the ailments of the conducting counsel, the delay has occasioned and there was no wilful and deliberate laches on the part of the petitioners.

The aforesaid grounds have been considered.

An adjudication of an application concerning condonation of delay has to be done by taking a pragmatic and justice oriented approach wherein substantial justice is to be preferred over technicalities. At the same time, the aspect that by operation of the law of limitation, a substantial right accrued to the other party cannot be wholly ignored.

Considering the above, this Court is of the opinion that the delay may be conducted which however is required to be subjected to certain conditions.

The instant application accordingly stands allowed and the delay of 801 days in preferring the appeal against the judgment and order dated 24.08.2016 by the learned Employees Insurance Court is condoned subject to payment of Rs. 10,000/- (Rupees Ten Thousand) in favour of the Gauhati High Court Bar Association Welfare Fund.

JUDGE

Comparing Assistant