

THE HIGH COURT OF TRIPURA
AGARTALA

C.M. Appl. 103 of 2015 in
MFA (W/C) 11 of 2015

Shri Samir Kumar Roy,
S/O. Late Srish Chandra Roy,
Resident of A.D. Nagar,
Road No.1, P.O. A.D. Nagar,
P.S. A.D. Nagar (Previously West Agartala),
District – West Tripura.

..... *Petitioner*

- Vs. -

1. Mazagon Dock Limited,
Dockyard Road,
Mumbai – 400010
(Represented by its Chairman).

2. The New India Assurance Co. Ltd.,
(Represented by its Branch Manager),
H.G.B Road, First Floor, Agartala,
District – West Tripura,
Pin No. 799001, Tripura State.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the applicant : Mr. I. Chakraborty, Advocate.

For the respondents : None.

Date of hearing & : 21.03.2015.
delivery of
Judgment & order.

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

This is an application filed by the applicant for
condoning delay of 1651 days in preferring appeal against the

judgment dated 28.08.2010 passed in T.S. (WC) 29 of 2008 by the Commissioner, Workmen's Compensation, West Tripura, Agartala.

2. The allegations made are that the petitioner served in the Indian Navy from 1968 to 1982. After retirement, he started working in Mazagon Dock Ltd. at Mumbai and worked there till 31st May, 2001 when he sought voluntary retirement and retired. According to the petitioner, an accident took place at Mumbai on 16.04.1994 wherein he received injuries and this petition arises out of proceedings filed by the petitioner claiming compensation under the Workmen's Compensation Act now renamed as the Employee's Compensation Act 1923 for the accident which took place on 16.04.1984 at Mumbai.

3. The petitioner allegedly suffered the injuries in 1994. He retired from the Mazagon Dock Ltd. on 2001. During these 7 years he did not file any claim petition. After he retired he came back to his native place i.e. Tripura and then filed the petition under the Workmen's Compensation Act in the year 2002. The claim petition was filed after 8 years.

4. It appears that the petitioner knowing fully well that only the Courts at Mumbai had jurisdiction to decide the case after his retirement tried to chose the Forum of his choice and wanted

to file the case in Tripura where he thought he could get a favourable order in his favour. This cannot be permitted.

5. The respondent Mazagon Dock Ltd. not only contested the claim petition, but also alleged that the claimant had suffered the injury in a fall in the bathroom and it had no connection with his employment. It was also pointed out that from 20th April, 1994 to 31.08.1994, the complainant was treated for enlargement of prostate gland which has no connection with any accident.

6. The learned Commissioner found that after he was discharged from hospital on 31.08.1994, the claimant had resumed duty on 01.09.1994 and continued to work as such till his retirement on 31.05.2001. It is also not disputed that at that time, he was getting salary of Rs.7,154/- per month. This clearly shows that the petitioner was neither a very poor person. He was working in the Mazagon Dock Ltd. and the jurisdiction to entertain the claim petition at the relevant time was only with the Workmen's Compensation Commissioner at Mumbai because the accident took place at Mumbai and the petitioner at the relevant time was residing at Mumbai. As found by the learned Tribunal, there is no explanation why for 8 years he could not file the claim petition in Mumbai.

7. Aggrieved by the order of the Commissioner, the petitioner approached the Gauhati High Court by filing an appeal and after the appeal was argued and heard for a considerable length of time on merits, counsel for the petitioner withdrew the Civil Revision Petition No.31 of 2006 on 22.01.2007. Thereafter, the petitioner filed a Review Petition and in the Review Petition, it was stated by the counsel that the withdrawal was due to misconception of fact and the case should be restored and the matter may be remanded back to the Commissioner, Workmen's Compensation for deciding the case on merit. This prayer was rejected, but it was left open to the petitioner to approach the Commissioner, Workmen's Compensation by filing an appropriate review petition for review of the case. A review petition was filed. Finally, the Commissioner rejected the review petition on 08.08.2010.

8. Shockingly, this petition has been filed after more than 4 years and there is virtually no explanation why this petition is filed after so much delay. It is true that the petitioner is an Ex-serviceman and has served the Country, but that does not give him any right to misuse the process of law. He has at every stage approached the Court after great delay. Therefore, I find no merit in the petition which is dismissed.

9. In view of the fact that this case is an abuse of the process of the Court. I would have normally imposed heavy costs, but the only reason why I have not imposed costs is that Mr. I. Chakraborty, learned counsel points out that the petitioner is a former member of the Indian Navy and therefore, costs may not be imposed. The petitioner is, however, warned that if he tries to persist with this sort of litigation in future, no mercy shall be shown.

CHIEF JUSTICE

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