

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVIEW PETITION NO. 130 OF 2015

1. State of Chhattisgarh, through Secretary, Department of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. The Director, Higher Education, Raipur (C.G.)

... Applicants

Versus

Dr. (Smt.) Kalyani Verma, Widow of Late Dr. Pramod Verma, aged about 53 years, R/o Mangla, Bilaspur, Tehsil and District Bilaspur (C.G.)

... Respondent

For Applicants	:	Mr. Prafull Bharat, Additional Advocate General
For Respondent	:	Dr. N.K. Shukla, Senior Advocate, along with Mr. Manoj Yadav, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

14/01/2016

1. The present application seeks review of order dated 9.2.2015 in Writ Appeal No. 22 of 2015.
2. I.A. No. 1 of 2015 has been filed to condone delay of 186 days in preferring the present application.
3. The Respondent filed Writ Petition (S) No. 4605 of 2007 questioning the grant of Assistant Professor (Senior Scale) from 4.3.2002 and Assistant Professor (Selection Grade) with effect from 4.3.2007 to her contending that she was entitled from earlier dates. The writ petition was dismissed on 12.12.2014. Writ Appeal No. 22 of 2015 preferred against the same was allowed on 9.2.2015. A copy of the order was served on the authorities on 28.2.2015 for compliance. Contempt Case No. 231 of 2015 was filed on 5.5.2015 alleging non-

compliance. It was disposed on 12.5.2015 granting one more opportunity to the authorities for compliance.

4. Learned Additional Advocate General submitted that the order dated 9.2.2015 needs to be reviewed as it has not properly considered the statutory amendment made on 11.10.1999 to the earlier rules promulgated on 31.8.1990 and its effect on the claims of the Respondent.

5. Learned Senior Counsel for the Respondent submitted that in the appeal the authorities had taken the stand that the notification dated 11.10.1999 was not statutory in nature and had no binding force. In the review they are making a complete somersault.

6. The I.A. application for condoning delay displays that the authorities took no steps whatsoever either for compliance or otherwise of the order dated 9.2.2005 for more than three months. It appears that after being made aware of the institution of Contempt Case No. 231 of 2015 they decided to file the Review application in May 2015 and actually filed it four months later on 30.9.2015.

7. The application for condoning delay of 186 days refers to official procedure for approval to file Review, collection of relevant papers and documents to file the review petition.

8. Delay in filing the Review application can be condoned provided sufficient cause is shown. The Respondent is entitled to the fruits of success when the appeal has been allowed. A time barred plea for reconsideration of the same by the Petitioner must make out cogent and germane grounds only after which the prayer can be considered on merits. The application for condoning delay does not set out any sufficient cause. If the matter had been contested by the Petitioner before the writ court and in appeal it is difficult to understand what

papers and documents were required to be collected for filing of the Review application. The plea in the Review application is to revisit the amendment of the rules dated 11.10.1999. The explanation that time was consumed in collecting papers and documents manifestly becomes frivolous and flippant.

9. Bureaucratic lethargy or the moving of files from one level to another has not been considered sufficient explanation to condone delay. Even if some latitude is required to be given to the State authorities, there must be a plausible explanation with regard to the delay. The Government cannot simply claim the status of a preferred litigant to condone delay.

10. In (2012) 5 SCC 157 (Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai) considering the explanation of official delays setting aside the order of the High Court it was observed as follows :-

“25. In cases involving the State and its agencies/instrumentalities, the court can take note of the fact that sufficient time is taken in the decision-making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”

11. In (2013) 12 SCC 649 (Esha Bhattacharjee v. Raghunathpur Nafar Academy) it was observed :-

21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.....

22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.

12. Declining to condone delay of 51 days in a matter under the Excise Act in (2015) 10 SCC 642 (Essar Oil Ltd. Hindustan Shipyard Ltd.), considering a similar plea it was observed as follows :-

“5. It is further stated in the rejoinder-affidavit to the counter-affidavit on behalf of the respondents that “such delay is always beyond the control of especially in government matters as the file has to be routed through several sections of the Department”. We are aware of the fact that the Government being impersonal takes longer time than the private bodies or the individuals. Even giving that latitude, there must be some way or attempt to explain the cause for such delay.”

13. We are therefore not satisfied on facts pleaded to condone delay and even otherwise do not find that any ground for exercise of the limited review jurisdiction in the facts of the case.

14. I.A. No. 1 of 2015 for condoning delay is dismissed. Consequently, the review application automatically fails and is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge