

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 580 of 2016

1. Milan Das S/o Dhurvin Das, aged about 53 years, R/o- Village- Podibahar, I.T.I. Korba, P.S.- Kotwali, Korba, Civil & Revenue District- Korba, (Chhattisgarh).

---- Applicant

Versus

1. Ravi Kohli Manager, Fueler Petrol Pump, Jamni Pali, Police Station- Darri, Tehsil- Katghora, Civil & Revenue District- Korba, (Chhattisgarh).
2. Secretary, Office of Industrial Tribunal, Krishna Sadan- 16, H.I.G. Shankar Nagar, Raipur, Civil & Revenue District- Raipur, (Chhattisgarh).

---- Respondents

For Applicant – Shri Vivek Tripathi, Advocate.

For Respondents 1 and 2 – None, though served by ordinary mode as per office note dated 23-11-2016.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

28-11-2016

1. Heard on I.A.No.1/2016 for condonation of delay in filing the instant MCC as the MCC has been preferred after 893 days of its limitation.
2. Learned counsel for the applicant prays that the applicant is old aged person, therefore he was unable to attend office of his counsel and also due to communication problem as his mobile number was changed and when he came to office at 31-07-2016 then only on enquiry default in MCC No.107/2014 was dectated, thereafter the applicant filed the instant MCC for restoration of W.P. No.1996/2003. The delay is unintentional and bonafide, hence, the delay may be condoned and the MCC may be taken for hearing.
3. Perused the material, W.P. No.1996/2003 dismissed for want of prosecution on 10-01-2014. Earlier also on 05-02-2009, the said W.P. was dismissed for want of prosecution and thereafter the same was restored. After the second dismissal, i.e., 10-01-2014 for want of prosecution, the applicant filed MCC No.107/2014 and on 11-04-2014 at the request of learned counsel for the applicant said MCC was disposed of as withdrawn with liberty to file

legally constituted MCC and thereafter after a period of 893 days, the applicant has filed the instant MCC.

4. On perusal of the connected record of W.P. No.1996/2003, it appears that his application for payment of wages was filed after one year of its limitation and the labour court dismissed his application under the proviso of Section 15 Sub-section 2 of the Payment of Wages Act, 1936. Against the said order, the present applicant preferred appeal before the industrial court, the said appeal was dismissed as there was no any application to condone the delay and also the affidavit in support of that application, also the Industrial court assessed that it is not proved that the applicant wanted to do the job, he gave his appearance and he was denied for the work. Against the said order the petitioner/applicant preferred the W.P. No.1996/2003 under Article 226/227 of the Constitution of India.

5. On perusal of the entire material, it appears that the applicant has not satisfactorily explained the delay of 893 days to file the instant MCC as twice his W.P. was dismissed and while hearing on MCC No.107/2014, the said MCC was not a legally constituted MCC and at the request of learned counsel for the applicant, the said MCC was disposed of as withdrawn. The applicant is resident of P.S. Kotwali, Korba, it was his duty to remain aware regarding filing of legally constituted MCC well within time. The reasons mentioned in the I.A.No.1/2016 are not satisfactory and not explained bonafide ground for such delay of 893 days.

6. Consequently, I.A.No.1/2016 being devoid of substance is dismissed as not maintainable. The instant MCC is also dismissed as not maintainable being barred by limitation by 893 days.

7. The MCC dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE