

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 2709 OF 2016

MUKTABAI WD/O VITTHAL PANDIKODE
VERSUS
UNION OF INDIA, THROUGH GENERAL MANAGER,
CENTRAL RAILWAY, C.S.T. MUMBAI

...

Advocate for Appellants : Mr. Vishnu B. Madan.

Advocate for Respondents : Mr. Manish N. Navandar.

...

CORAM : **P. R. BORA, J.**

DATE : 21st July, 2016.

ORDER:

. Heard finally at the admission stage.

2 The Appellant had filed a claim petition before the Railway Claims Tribunal and had also filed an application seeking condonation of delay, which has occurred in filing the said claim petition. The said application and the entire claim petition has been dismissed by the Railway Claims Tribunal for want of prosecution vide the impugned order. The learned counsel for the Appellant submits that the Appellant henceforth will promptly prosecute the claim petition before the Railway Claims Tribunal. It is further submitted that if the impugned order is not set aside, the Appellant will suffer irreparable loss and would be losing an opportunity to contest the claim petition

on merits.

3 Shri Navandar, learned counsel for the Respondent submitted that the impugned order is self explanatory, which indicates that despite due opportunities were given to the Appellant, she did not proceed further with the matter, and as such, there was no other option before the Tribunal except to dismiss the application seeking condonation of delay as well as the entire claim petition for want of prosecution. The learned counsel has, therefore, prayed for dismissal of the appeal.

4 After having considered the submissions advanced by the learned counsel appearing for the respective parties and on perusal of the impugned order, it appears to me that the Appellant needs to be given an opportunity to contest the claim petition as well as the application for condonation of delay on merits. Though it is true that some lapses had occurred on the part of the Appellant in prosecuting the claim petition and that was the reason that the claim petition alongwith application for condonation of delay was dismissed in default in view of the fact that now the Appellant has undertaken to proceed with the claim petition promptly, I am inclined to allow the present appeal. Hence the following order –

ORDER

- I. The appeal is allowed.
- II. The impugned order is set aside.
- III. Claim Application No.MA/2013/023, stands restored to its original file.
- IV. The parties shall appear before the Railway Claims Tribunal on 22nd August, 2016, so that no fresh notices be required for appearance of the parties.

[P. R. BORA, J.]

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