

HONOURABLE SRI JUSTICE S.RAVI KUMAR

C.M.A.No.908 OF 2010

Dated 19-2-2016

Between:

Abdul Mahaboob Pasha and others.

..Appellants.

And:

The Union of India, represented by its General
Manager, South Central Railway, Secunderabad.

..Respondent.

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JUDGMENT:

This appeal is preferred questioning the order dated 9-9-2010 in M.A.No.70 of 2009 in O.A.II (u).No.80 of 2009 whereunder Railway Claims Tribunal, dismissed the application of claimants for condonation of delay of 1306 in preferring claim of compensation for the death of mother of first applicant.

Appellants herein filed claim application with a delay petition and one of the applicants filed his affidavit in support of the delay condonation. The reasons given for the delay of 1308 in the affidavit is as follows:

"It is submitted that we are daily wages earners. Due to lack of knowledge about claiming compensation the delay was occurred in filing the case. So far the Honourable authority condone the delay 1306 days in, neither will full nor wanton the delay is not condone we will be suffer more loss for pay the compensation of the respondent authorities due to said reason."

Railway Claim Tribunal considering above

reason and also counter filed on behalf of Railways, held that delay of 1306 days was not properly explained and as the delay was abnormal, the contention of the appellants that they could not approach tribunal due to lack of knowledge is not acceptable. Aggrieved by the said order, present appeal is preferred.

Advocate for appellants submitted that the appellants are poor persons and they have no knowledge of legal proceedings and for that reason, they could not file application in time. He submitted that the compensation is claimed for death of Abdul Raheem and this being a beneficial legislation, appellants may be given an opportunity by remitting back the matter to tribunal for fresh consideration. He relied on a decision in *P.K.RAMACHANDRAN v. STATE OF KERALA AND ANOTHER* (^[1]) and also on an unreported decision of this court in Civil Miscellaneous Petition No.1085 of 2005. (*K.VENKATA SURESH BABU vs. THE UNION OF INDIA, THE GENERAL MANAGER, THE UNION OF INDIA, SOUTH CENTRAL RAILWAY SECUNDERABAD*).

On the other hand, advocate for Railways submitted that the Railway Claims tribunal rightly dismissed the application and that there are no grounds to interfere.

Now the point that would arise for my consideration in this appeal is whether the order of Tribunal is legal, correct and proper?

POINT:

I have perused material papers including affidavit of the first applicant filed in support of the delay condonation petition.

The only reason stated in the affidavit is that due to lack of knowledge of claiming compensation, they

could not file claim petition in time. The affidavit is vague and the applicants have not disclosed as to how and when they came to know that they have got right to file claim application, they also did not indicate in their affidavit through whom they came to know about their right of filing claim application. If really applicants have no knowledge of making claim, they must indicate as to when they came to know about their right and the source through which they came to know about their right. These important things are completely absent and except saying one word that due to lack of knowledge, they could not prefer appeal in time, no other reasons are given. This delay is not a small delay and it is an abnormal delay of 1308 days. *"In C.M.A.No.1085 of 2005, this court condoned delay of 1536 days as appellant therein contended that he became physically crippled on account of accident and it took more than 3 years for healing of injuries and he has undergone several operations in private hospital, but still injuries are not completely healed and he is getting body pains and these reasons could not allow him to approach tribunal to file claim application and considering those reasons, delay of 1536 days was condoned."*

That decision cannot be applied to this case because here the appellants have not stated any sufficient reasons leave alone convincing reasons.

In *P.K.RAMACHANDRAN v. STATE OF KERALA AND ANOTHER* case, Honourable Supreme Court observed as follows:

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the

delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs."

From a reading of the above para, it is clear that provisions of Limitation Act have to be applied with all its rigour when the statute prescribe certain limitations, courts have no power to extend limitation on equitable ground, that is the principle laid down in the above referred Supreme Court decision and if that principle is applied, the petitioners claim for the delay of 1308 cannot be considered on equitable ground as requested by the advocate for appellants.

On a consideration of material, I am of the view that the railway claims tribunal has rightly dismissed application filed on behalf of applicants and correctly exercised discretion and I do not find any wrong in the order of the lower tribunal.

Therefore, Miscellaneous Appeal is dismissed as devoid of merits. No costs.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI
KUMAR

Dated 19-2-2016.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dvs

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