

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2021 of 2016 (O&M)
Date of decision: 2.3.2016

Rajiv Johar

.. Petitioner

v.

Union of India and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Aman Bansal, Advocate for the petitioner.
Mr. Sudhir Nar, Advocate for the respondents.

...

Rajesh Bindal J.

The petitioner has approached this court impugning the order dated 14.1.2016, passed by respondent No. 2, vide which his application for renewal of Certificate of Practice as Notary was rejected on the ground that the application was not filed six months before the expiry of period of validity.

Learned counsel for the petitioner submitted that no doubt, as per the Rule 8B of the Notaries Rules, 1956 (for short, 'the Rules'), application for renewal has to be filed six months before the date of expiry of period of validity, however, the appropriate government has been given power to relax the condition considering the reasons stated in the application. In the case in hand, the Certificate of Practice of the petitioner was to expire on 8.11.2015. He filed the application on 7.9.2015. The delay occurred on account of the reason that father of the petitioner was not well and he expired on 3.1.2016. The aforesaid reasons were mentioned in response to the notice issued to the petitioner. In support of his plea that

delay in filing the application is not fatal, reliance was placed upon the judgments of Delhi High Court in W.P. (C) No. 8503 of 2015—Neelam Sharma v. Union of India, decided on 11.9.2015 and Kerala High Court in W.P. (C) No. 30974 of 2015 (V)--Ranjith Kumar T. C. v. Union of India and another, decided on 17.11.2015.

On the other hand, learned counsel for the respondents submitted that the application having not been filed within the period prescribed under the Rules and the reason assigned by the petitioner was not found to be tenable, the application for renewal filed by the petitioner was rightly dismissed.

Heard learned counsel for the parties and perused the paper book.

Rule 8B of the Rules provides that application for renewal of Certificate of Practice as Notary is to be submitted six months before the date of expiry of the period of validity, however, proviso to the Rule provides that the appropriate Government may, considering the reasons stated in the application, relax the condition of submission of application for renewal of Certificate of Practice. Rule 8B of the Rules is extracted below:

“8B. Renewal of Certificate of Practice-- The Certificate of Practice issued under sub-rule (4) of rule 8 may be renewed for a further period of five years on payment of prescribed fee. An application for renewal of Certificate of Practice shall be submitted to the appropriate Government before six months from the date of expiry of its period of validity.

Provided that the appropriate Government may, after considering the reasons stated in the application, relax the condition of submission of application for renewal of certificate of practice before the above specific period.”

Once the proviso to the Rule itself provides that there is power to relax, meaning thereby the period prescribed therein is not mandatory. In the case in hand, the Certificate of Practice of the petitioner was to expire on 8.11.2015. He applied for renewal thereof on 7.9.2015, on which certain queries were raised vide letter dated 5.10.2015, which were responded to by

the petitioner vide letter dated 23.10.2015. While specifying the reason for delayed filing of the application, the petitioner submitted as under:

“2. Reasons for delay in applying for renewal:-

That my renewal of certificate of practice under the Notary Act 1952 is 8th November, 2015 and I have applied for renewal on 7th September, 2015, whereas I have to apply six months before the renewal date as per new amendment in the rule 8-B of The Notaries Rules, 1956. That there is delay of about three months due to family health problems. That my father remains very sick and he is bed ridden from last eight months, he is about 85 years old (ex-serviceman and an advocate) moreover my wife is suffering from slip-disc problem. I am the only person to look after them, therefore I could not apply for renewal in time due to mental stress. I swear on oath that there shall not delay in future in any respect.”

A perusal of the aforesaid reason shows that the application could not be filed because of illness of father of the petitioner, who was 85 years of age and ex-serviceman. The petitioner also claimed that his wife was also suffering from slip-disc. Without considering the reasons stated in the application, the competent authority rejected the application merely stating that the application was not filed six months prior to the date of expiry of Certificate of Practice. The reason assigned is not tenable.

In view of my aforesaid discussion, the writ petition is allowed. The impugned communication rejecting the application of the petitioner for renewal of Certificate of Practice as Notary is set aside. The matter is remitted back to the competent authority to be decided afresh. The petitioner shall be at liberty to supplement the reason for non-filing of the application within the period prescribed.

(Rajesh Bindal)
Judge

2.3.2016
mk

(Refer to Reporter)