

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION O. NO.1641/2017
AND
MISC. CIVIL APPLICATION ST. NO.21026/2017
IN
WRIT PETITION NO.1738/2005 (D)

Kishor Singh s/o Shri Ramdas Yadav

...Versus...

Union of India, through Director General of Railway Protection Force, New Delhi
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : PRASANNA B. VARALE AND
ARUN D. UPADHYE, JJ.

DATE : 23.11.2017

1. None appears for the applicant even on second call.
2. Civil Application O. No.1641/2017 is filed by the applicant seeking condonation of delay caused in filing the misc. civil application for restoration of writ petition, which was dismissed in default on 2/5/2016. In the application for condonation of delay, the ground is raised that the applicant was not informed by the Counsel about the order passed by this Court. The applicant had no occasion to attend the Court as he was having faith on his Counsel. It is also stated in the application that many calls were made to the Counsel and as there was no satisfactory answer the applicant was required to visit Nagpur and

on taking search of status of the petition he came to know that the petition is dismissed in default. It is only a general statement made in the application that as the applicant/petitioner could not trace out the status, the delay of 15 months and 27 days is caused in filing the restoration application. In the restoration application, it is submitted that initially a Counsel was engaged and through the learned Counsel the civil applications were filed. It is stated in the application that as the Counsel was not feeling well, therefore, the brief was taken from the Counsel by engaging another Counsel. The another Counsel filed an application bearing C.A.W. No.694/2015. It is then stated that as the applicant resides at his native place, he was unable to keep watch on his matter and he was having faith on his Counsel and was under impression that the Counsel would represent him. It is further stated that when he came to Nagpur on 23/9/2017, it came to his knowledge that the petition is dismissed for want of prosecution.

3. From the perusal of the record, we are of the opinion that when the order of dismissal of writ petition was passed the learned Counsel who was representing the applicant at the relevant time could have certainly stated the reason for his non-attendance. Thus, we find that the attempt is made only by change of Counsel without there being any ground on merit. The civil application as well as misc. civil application are dismissed. No costs.

JUDGE

JUDGE