

*THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI*

WRIT PETITION No.8518 of 2017

ORDER: (per SK,J)

The petitioners are the applicants in O.A.SR.No.257 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. They filed M.A.No.43 of 2017 therein seeking condonation of the delay of 1 year 7 months and 27 days in filing the OA. The prayer in the O.A. was directed against G.O.Ms.No.185 dated 26.05.2015, G.O.Ms.No.286 dated 06.08.2015 and the Memo dated 27.12.2016, whereby the State of Andhra Pradesh rejected the petitioner-association's representation dated 05.10.2015. By order dated 14.02.2017, the Tribunal dismissed M.A.No.43 of 2017 filed in O.A.SR.No.257 of 2017 being of the opinion that there could not be any lethargy on the part of the petitioner-association in questioning an issue and therefore, no reason was made out to be lenient towards it. The Tribunal further observed that the petitioner-association had failed to explain each day's delay and that there was no sufficient cause made out for condoning the delay. Aggrieved thereby, the applicants in the said O.A. filed this writ petition.

Heard Sri V.V.Narasimha Rao, learned counsel for the petitioners, and the learned Government Pleader for Services (Andhra Pradesh) for the authorities.

Though condonation of delay by the Tribunal is an exercise of its discretionary power, it is well established that such exercise must be judicious. In the present case, challenge laid in the O.A. was not only against the Government Orders dating back to the year 2015 but also to the Memo dated 27.12.2016, whereby the petitioner-association's

representation dated 05.10.2015 was rejected. In effect, the cause of action crystallised only upon rejection of the representation and therefore, the filing of the O.A. in January, 2017, cannot be said to be with any real delay. However, as the petitioners also laid a challenge to the Government Orders of the year 2015, they seem to have moved the miscellaneous application seeking condonation of the delay by reckoning it from the date of issuance of the earlier of the two G.Os.

Viewed in totality, the case on hand was a fit one for the Tribunal to have shown lenience to the petitioners and condoned the delay. Holding against the petitioners on the ground that they failed to explain the day-to-day delay is not the correct approach as it is settled law that the explanation for the delay would have to be viewed from a wider perspective and not in a pedantic manner by insisting upon explaining each and every day's delay.

We therefore set aside the order dated 14.02.2017 passed by the Tribunal dismissing M.A.No.43 of 2017 in O.A.SR.No.257 of 2017 and condone the delay in the light of the discussion supra. The Tribunal shall number the O.A., if it is otherwise found to be in order, and proceed in the matter in accordance with law.

The writ petition is accordingly allowed.

Pending miscellaneous petitions, if any, shall stand disposed of in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE N.BALAYOGI

Date:13.03.2017
GJ

