

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL MISCELLANEOUS APPEAL No.1196 OF 2008

JUDGMENT:

This appeal is filed against the order dated 12.04.2006 in I.A.No.7 of 2005 in W.C.No.7 of 1998 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Adilabad.

I.A.No.7 of 2005 is filed to set aside the *ex parte* order dated 18.11.2000 passed in W.C.No.7 of 1998 and to condone the delay in filing set aside *ex parte* order. The learned Commissioner after perusing the contents of the affidavit came to a conclusion that absolutely no reasons are made out to condone the delay and the reasons given are not satisfactory.

An application is filed to set aside the *ex parte* decree stating that there is a delay of 1733 days. No separate application appears to have been filed to condone the delay. The learned Commissioner took up the matter for hearing and both the parties appeared and argued the matter. The learned Commissioner by his impugned order dismissed the application and the same is now challenged before this Court.

In the grounds of appeal also, it is merely urged that a *bona fide* cause was shown that the appellant was not informed by the Advocate about the disposal of W.C.

On a perusal of the record, this Court observes that the learned Commissioner granted about 12 adjournments from 16.12.1998 to 18.11.2000 before the appellant herein was set *ex parte*. Though the appellant herein has a duty to follow up the matter, he merely shifted the blame on his counsel. Apart from

that, the present application that was filed shows that he claims to have got knowledge after receiving the notice from the Court on 10.09.2005 directing him to pay the awarded amount. Copy of the said notice is also not filed to enable the Court below or this Court to appreciate that it is only through this notice, the appellant herein has got knowledge.

This Court after perusal of the record finds that there is a huge delay and no satisfactory explanation is given for the delay. As per the settled law, it is not the length of the delay, but the correctness of the explanation for the delay that is important. In the present case, the reasons furnished are not satisfactory to condone the delay. This Court, therefore, holds that the order dated 12.04.2006 passed in I.A.No.7 of 2005 in W.C.No.7 of 1998 does not suffer from any infirmity.

Hence, the appeal is dismissed as there are no merits. No costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date : 15.02.2018
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