

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.167 of 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellant-applicant, challenging the order, dated 06.01.2012, passed in I.A. No.18 of 2011 and Res.No.19 of 2011 in O.A.A. No.393 of 2003, by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the Tribunal dismissed the applications filed by the appellant-applicant, which were filed to condone the delay of 1520 days in filing the restoration petition and to set aside the dismissal order dated 30.03.2007 and restore the petition filed vide I.A. No.61 of 2007.

2. Heard both sides. Perused the record.

3. Learned counsel for the appellant has supported the averments of the application.

4. On the other hand, learned counsel for the respondent-railways would contend that the applicant is filing one application after another application to condone the delay; the application was not properly pursued; since several years have been passed, railway authorities are not in a position to trace out the records to find out the genuineness or otherwise of the documents relied on by the applicant; the first application to condone the delay of 1885 days in filing restoration petition was not filed showing sufficient cause; and ultimately, contended that there no justifiable grounds to condone the delay.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the delay of 1520 days in filing the restoration petition and the impugned order is liable to be set aside?

6. POINT: The interlocutory application to condone the delay in filing the claim application was dismissed for default on 28.12.2006 for non-prosecution. Thereafter, I.A. No.61 of 2007 was filed to set aside the order passed in the said I.A. The same was dismissed on 30.03.2007. Thereafter, the subject I.A. is filed to condone the delay of 1520 days in filing restoration petition. As per the record, in spite of several opportunities, the applicant has not diligently pursued the application to condone the delay of 1520 days. There was callous attitude on the part of the applicant. Day-to-day delay has not been explained. The Tribunal, having analysed the contentions submitted by both sides, justified in passing the impugned order and declined to condone the delay. The said order is supported by reasons. The grounds urged before this Court do not merit consideration. Hence, the impugned order under appeal is confirmed.

7. In the result, the appeal is dismissed, confirming the impugned order, dated 06.01.2012, passed by the Tribunal in I.A. No.18 of 2011 and Res.No.19 of 2011 in O.A.A. No.393 of 2003. Pending Miscellaneous Petitions, if any, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

12th November, 2018
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