

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 520 of 2019

- Lal Bahadur Jaiswal S/o (Late) Kuldeep Jaiswal Aged About 47 Years Occupation Service, Presently Posted As Assistant Grade li / Execution Clerk In The Court Of Civil Judge, Janakpur, Tehsil Manendragarh, District Koria Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

1. District And Sessions Judge Koria, In The Capacity Of Disciplinary Authority In The Charge Memo No. 231/2 - 8- 1/2007 Dated 26/04/2010, Baikunthpur, District Koria, Chhattisgarh.,
2. Additional District And Sessions Judge (Ftc), In The Capacity Of Enquiry Officer In The Charge Memo No. 231/2 - 8- 1/2007 Dated 26/04/2010, Manendragarh , District Koria, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Respondents

For Applicant : Mr. Mahendra Dubey, Advocate.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

26-09-2019

1. Present MCC has been filed for restoration of Writ Petition (S)No. 1832 of 2011 which was dismissed on 18-2-2015 for want of prosecution.
2. As per the applicant, due to bona fide mistake on the part of the counsel, he could not appear before this court when the case was called for hearing, therefore, mistake is liable to be

condoned. The said petition was dismissed for want of prosecution on 18-2-2015 whereas application for restoration is filed on 26-3-2019 i.e., four years, one month and eight days.

3. I have heard, learned counsel for the applicant.
4. The question for consideration of this Court is whether the applicant has shown sufficient cause for restoration of the said petition. The test which is applied is whether the applicant honestly and sincerely intended to prosecute the appeal. The application for restoration of the said petition is filed after four years, one month and eight days. It is the case where the party had knowledge about listing of the case. Filing of an application after lapse of time shows that the applicant has not acted diligently and remained inactive for a long. It can be said that the applicant has acted in negligent manner and there was want of bona fide on his part. It is not the case where applicant sincerely intended to contest the case and did its best to do so, therefore, it is the applicant who could be blamed for non-prosecution of the case. The application is filed after four years, one month and eight days which is clearly after expiry of the period of limitation, in other words the application is hopelessly time barred.

5. This Court in the facts and circumstances of the case cannot ignore the period of limitation because no court shall have jurisdiction to entertain any application if the same has been filed after expiry of the period of the limitation. The application is evidently time barred and looking to the gross negligence of the applicant this Court has no reason to restore the said appeal.
6. Accordingly, the instant MCC is liable to be and hereby dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju