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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CIVIL APPLICATION NO.4713 OF 2019
IN FAST/11674/2019

DEAN THR AUTHORISED SIGNATORY GAJANAN PANDURANG
PAWDEL.T.M. GENERRAL HOSPITAL AND MEDICAL COLLEGE
VERSUS
LATA LAXMAN SALUNKE

...

Advocate for Applicant : Shri Adgaonkar Ravibhushan P.
Advocate for Respondent : Shri S. B. Madde

CORAM: V.L. ACHLIYA, J.
DATE: 16.04.2019

PER COURT :

1] The applicant has filed this application seeking condonation of delay of 45 days in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant and the respondent.

3] In brief, it is the contention of learned counsel for the applicant that the delay caused in filing appeal cannot be termed as intentional. It is submitted that the applicant is a public hospital run by Municipal Corporation, Bruhan Mumbai. The order passed by the Commissioner for Workmen's Compensation, Latur, dated 19.12.2018 is challenged by way of appeal filed by the

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applicant. It is the contention of learned counsel for the applicant that though the award was passed on 19.12.2018, its copy was received on 26.2.2019. Immediately after communication of the order passed by the Commissioner for Workmen's Compensation, steps were taken to file appeal in the matter. In the course, 45 days delay is caused. It is submitted that the applicant has a good case to succeed in the appeal. The accident on account of which the Commissioner for Workmen's Compensation has awarded the compensation is claimed to have occurred at Railway track in Mumbai and the claim in respect of it was filed at Latur. It is submitted that in case delay is not condoned, serious prejudice would be caused to the applicant.

4] On the other hand, the learned counsel for the respondent opposed the application with contention that the cause assigned for condonation of delay cannot be termed as sufficient to condone the delay of 45 days in filing appeal. It is submitted that the claim is allowed *ex-parte* and there is no case for the applicant to succeed in appeal.

5] Considering the submissions advanced in the light of

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overall facts of the case, the reasons assigned for condonation of delay and the consequences to follow if the delay is not condoned, I am of the view that the delay deserves to be condoned in the interest of justice. Keeping in mind the broad principles laid down in the case of *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & others* [(2013) 12 SCC 649], I am of the view that the delay deserves to be condoned.

6] Accordingly, the application is allowed. Delay condoned. Appeal be registered and placed for admission on 2.7.2019.

7] Shri S.B. Madde, learned counsel waives service of notice for the respondent.

8] Call R & P.

9] Put up with R & P.

10] Parties are put to notice that the appeal may be heard at the stage of admission on next date.

11] S.O. to 2.7.2019.

(V.L. ACHLIYA, J.)