

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 26138 of 2019

ORDER:

In this writ petition, petitioner, who is a practicing Advocate, challenges order dated 30.10.2019 passed by respondent No.3- Railway Claims Tribunal, Secunderabad Bench (Tribunal), in O.A.(II) (U) No.489 of 2012.

The petitioner asserts that initially, Sri V. Vinod Kumar, learned Advocate, represented the applicant in the above said O.A.; that the said O.A. was dismissed for default on 20.04.2016; that on the restoration application filed by Sri T. Sekhar Babu and himself, N. John Babu, Advocates, the Tribunal passed order on 13.06.2019 allowing the same, subject to payment of costs of Rs.10,000/- to the Prime Minister's Relief Fund, by the counsel, who is responsible therefor; that the matter underwent five adjournments thereafter and that since the amount was not paid, vide order impugned, when the petitioner represented the matter, the Tribunal imposed on him costs of Rs.50,000/- payable to the Prime Minister's Relief Fund.

Learned counsel for the petitioner contends that under Section 35B C.P.C., costs could be directed to be paid only to the other party and such costs should be reasonably sufficient to reimburse the other party in respect of the expenses incurred in attending to the Court on that date, as such, the costs of Rs.50,000/- imposed upon the petitioner by the Tribunal, through the impugned order, is excessive. He also contends that on 30.10.2019, when the petitioner, as an Advocate, represented the matter, imposition of

such costs upon him by the Tribunal is illegal and therefore, prays for setting aside the impugned order.

Heard learned Standing Counsel for Railways appearing for respondent Nos.2 and 3.

Section 5 of the Limitation Act deals with condonation of delay and a Judicial Forum in its discretion, if the reasons stated for seeking restoration are sufficient, may condone the delay, at the same time, by putting the applicant on some terms.

A perusal of the impugned order discloses that the Tribunal, having observed that the aforesaid O.A. filed for grant of compensation on account of the death of the husband of the applicant therein, is pending since 2012 and having taken into consideration the fact that the order dated 13.06.2019 passed by the Tribunal imposing upon the counsel, who is responsible, costs of Rs.10,000/- payable to the Prime Minister's Relief Fund, while allowing the restoration application, was not complied with and the matter underwent five adjournments, found fault with the petitioner, who appeared on the fateful day, and imposed upon him costs of Rs.50,000/-.

This Court does not find any illegality in the order impugned imposing costs, as a condition precedent for condoning the delay of 1075 days in filing the application for restoration of O.A., which was dismissed for default on 20.04.2016. However, so far as the quantum of costs is concerned, it may be noted that in the order dated 13.06.2019, costs were imposed on the counsel, who is responsible, to be paid to the Prime Minister's Relief Fund. Though it

is submitted by the learned counsel for the petitioner that the said order stands merged with the order impugned, as a matter of fact, the petitioner did not challenge the same. Further, the contention of the learned counsel for the petitioner to modify the direction issued by the Tribunal to the petitioner for payment of costs to the Prime Minister's Relief Fund cannot be sustained. However, on account of the fact that the costs could not be paid by the counsel, who is responsible, pursuant to the order dated 13.06.2019, and merely because the petitioner represented the matter on 30.10.2019, he cannot be mulcted with costs of Rs.50,000/-, which, in the opinion of this Court, is excessive, as rightly contended by the learned counsel for the petitioner. Therefore, costs of Rs.50,000/- ordered to be paid by the petitioner to the Prime Minister's Relief Fund, in the impugned order, is not justified and the same is liable to be reduced.

In those circumstances, the writ petition is allowed modifying the impugned order to the effect that the petitioner shall pay costs of Rs.5,000/- (Rupees five thousand only) to the Prime Minister's Relief Fund, within a period of two (2) weeks from the date of receipt of a copy of this order.

Consequently, the miscellaneous petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:27.11.2019

Note: Issue cc tomorrow.

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