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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 03/09/2019

+ LPA No.565/2019

GAJRAJ SINGH

..... Appellant

Through: Mr. Sharad Prakash Pandey &
Mr. Manish Kr. Tiwari, Advs.

versus

DELHI TRANSPORT CORPORATION

..... Respondent

Through: Ms. Avnish Ahlawat, Mr. Sarfaraz
Khan & Mr. Nitesh Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

CM APPL. No. 39562/2019 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. No. 39563/2019 (application seeking condonation of 2167 days delay in filing of the petition)

Applicant seeks condonation of 2167 days in filing the present appeal.

Reasons for the delay are set-out in paragraph 3 of the application which is reproduced below:

“That a delay of 2167 days has occurred in filing the accompanying Letter Patent Appeal because Appellant being a

poor person and belongs to the economically poor society, the Appellant could not arrange the money for file the instant appeal and approach his advocate in the time. Therefore, the captained Letter Patent Appeal is being filed at this stage after delay on 2167 days has occurred. That the said delay has occurred due to the abovementioned reasons which are bonafide and beyond the control of the Appellant.”

2. We find the reasons as set out in the application do not justify condonation of delay of 2167 days. The law with regard to dealing with an application seeking condonation of delay is well settled, it is not the number of days of delay which are relevant but the grounds on which delay is sought to be condoned. It is also well-settled that the court must satisfy itself as to the reasons stated for seeking condonation of delay before allowing such application.

3. The present application is vague, lacks material particulars and the ground mentioned in the application does not inspire any confidence. There are no reasons to show as to what are the changes in the circumstances in the past six years for filing of the appeal at this stage. In the case of **Brijesh Kumar & Ors. vs. State of Haryana & Ors.** reported as (2014) 11 SCC 351, the Apex Court has held as under :

“10. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the court for condoning the delay. This Court has time and again

held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.”

Resultantly, we find no merit in this application. Accordingly, the same is dismissed.

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4. We have also examined the impugned order and heard the learned counsel on the merits of the matter. It may be noted that the following issues were framed by the Industrial Tribunal on 31.05.2000 :

*“(i) Whether a proper domestic enquiry was not conducted in accordance with principle of natural justice and if so, its effect?
(ii) As per terms of reference?”*

5. Against the award of the Tribunal, the workmen had filed a writ petition which was dismissed by the learned Single Judge. Taking into consideration and examining the evidence, the learned Single Judge held that the inquiry was held in a fair and proper manner and that there were no violations of principles of natural justice. The Single Judge has also taken into consideration that the Industrial Adjudicator has taken note of the fact that the petitioner (the appellant herein) had admitted in his cross-examination that he was supplied all the documents relating to the charges levelled against him. Inquiry proceedings marked as Ex-MW-1/2 also indicate that an option was given to the appellant to take the help of a co-worker, which he declined. The inquiry proceedings also contain his signatures.

6. We are further of the view that the Single Judge rightly applied the law, which is well-settled pertaining to matters regarding exercise of powers under Article 226 of the Constitution of India. We find no infirmity in the order on merits as well.

7. The LPA is accordingly dismissed.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 03, 2019

uj

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