

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CM-3749-CWP-2020
In/and
RA-CW-96-2020
in
CWP-10610-2013
Date of Decision: 30.07.2021

P. VENKATA RAO

...Petitioner

Versus

ORIENTAL BANK OF COMMERCE AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R.N. Lohan, Advocate
for the applicant-respondents.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Applicants/respondents seek review of an order/judgment dated 23.10.2019 whereby writ petition filed by the non-applicant/petitioner claiming benefit of pension in accordance with circular dated 13.11.2020 (Annexure P-7), was allowed.

2. There is a delay of 96 days in filing the review application.

Narrative of reasons pleaded in the accompanied condonation application under Section 5 of the Limitation Act, is as under: -

“That the certified copy of the order dated 23.10.2019 was applied on 30.10.2019 and was received on 06.11.2019 and thereafter the same was sent to the Corporate Office of the Bank. The matter was considered at various level in the bank and thereafter it was decided to file the review petition as the case of the petitioner is not covered by the judgment in CWP 6584 of 2002 and the counsel was requested to draft the review petition. The review petition was drafted on 25.01.2020 and was sent to the corporate office for vetting and thereafter the review petition was approved and was sent to the counsel for filing the review petition on 01.02.2020 and the final draft was

prepared and the certified copy of the order was sought by the counsel. However the certified copy of the order which was delivered on 06.11.2019 could not be traced and thereafter fresh application was submitted on 26.02.2020 for taking the certified copy of the order dated 23.10.2019 and the same was supplied on 27.02.2020 and thus there is a delay of 96 days in filing the review application.”

The aforesaid explanation given in the application for condonation of delay does not inspire any confidence. Reason given therein essentially is that certified copy was applied and upon the same being supplied, further steps were taken. Viz, it was referred for legal opinion, thereafter, review was drafted sometime in January, 2020. To be noted, that the judgment was dictated in open Court on 23.10.2019 and it was duly uploaded on the court website on 02.11.2019. It is rather intriguing that the judgment available on the website of the High Court, perhaps is perceived to be not authentic, knowing fully well that the period for limitation to file review is only 30 days.

3. In the instant case, only after expiry of the limitation period, the entire process of decision making seems to have commenced, including taking of the opinion and drafting of the petition as well as filing of the same.

4. Be that as it may, even otherwise, it is a settled proposition of law that by virtue of limitation, vested rights with of litigant cannot be treated in such careless manner, so as to divest him of the same on as flimsy grounds as pleaded in the application herein. In this context, reliance may be had on the Apex Court judgment rendered in ***Ramlal and others Vs. Rewa Coalfields Ltd.*** reported as ***1962 AIR (SC) 361***. Relevant extract of the same is reproduced here-in-below:

“7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of decree holder to treat the

decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge and this legal right which has accrued to the decree holder by lapse of time should not be lightly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the Court to condone delay and admit the appeal. This discretion has been deliberately conferred on the Court in order that judicial power and discretion in trial behalf should be exercised to advance substantial justice.”

5. No doubt, a discretion has been vested with court to condone the delay, provided sufficient cause thereof has been made out. I have already given my mind that reasons given in the application do not really make it out to be a sufficient cause. That apart, having perused the purported justification, I may hasten to add that very mechanical reasons have been given for the same. Almost suggestive, as if, to seek condonation of delay is a matter of right, regardless of the reasons *qua* the same.

6. It is high time that a lax litigant pays the price for casual and nonchalant approach in instituting time bound cases in the Courts, particularly, as enlightened a litigant as applicant-Insurance Company herein, which is not only legally backed up with an entire vertical of in-house legal professionals, but also having a panel of worthy and competent outsourced learned counsels, giving them advice at every step. Despite the same, if delay is caused at the cost of forfeiture of vested legal right of the opposite party, the same is to be deprecated. Delay is thus akin to a self-goal. Consequences thereof have to be suffered and most certainly, there cannot be any premium on a self goal.

7. In fact, going a step further, even sufficiency of cause, per se, does not result in any indefeasible legal right. Reference once again may be had on

“**Ramlal**” judgment *ibid*, based whereupon, His Lordship R.F. Nariman, J.

(as he then was), speaking for Apex Court in **Government of Maharashtra (Water Resources Department) versus M/s Borse Brothers Engineers & Contractors Pvt. Ltd., 2021 SCC OnLine SC 233**, observed as below: -

*“60. Also, it must be remembered that merely because sufficient cause has been made out in the facts of a given case, there is no right in the appellant to have delay condoned. This was felicitously put in **Ramlal v. Rewa Coalfields Ltd., (1962) 2 SCR 762** as follows:*

It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by S. 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the Court is dealing with applications made under S. 14 of the Limitation Act. In dealing with such applications the Court is called upon to consider the effect of the combined provisions of SS. 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of S.14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under S. 5 without reference to S.14.”

8. As an upshot of the aforesaid, no grounds to interfere for condonation of delay are made out. Dismissed.

July 30 , 2021
gurpreet/mahavir

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No