

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

934 CIVIL APPLICATION NO.2598 OF 2018
IN FAST/3831/2017

LANKA Wd/O WAMAN BANSOD AND ANR
VERSUS
UNION OF INDIA THR GENERAL MANAGER,
CENTRAL RAILWAY, CST, MUMBAI

...

Advocate for Applicants : Mr. Vishnu B. Madan
Advocate for Respondent : Mr. Navandar Manish N.

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CORAM : Y.G. KHOBRAGADE, J.
DATE : 16th November, 2022

PC.:-

Heard advocate Mr. Madan the learned counsel appearing for the applicant and advocate Mr. Navandar learned counsel appearing for respondent-sole at length.

2. The applicants have filed present application under Section 5 of the Limitation Act and prayed for condonation of delay of 26 days caused in filing appeal against the judgment and order dated 03.10.2016 passed by the learned Member, Railway in MA/NGP/2016/0016. According to the applicants, on 08.10.2016 they received certified copy of the impugned judgment and order through their counsel and when they visited their counsel to file appeal they were advised to arrange necessary Court fees and due to

their financial crisis they could not arrange the same, hence the delay of 26 days is caused.

3. Per contra, the learned counsel appearing for the non-applicant vehemently canvassed that the grounds which has been set out by the applicant are not *bona fide* and substantial and hence prayed for rejection of the application.

4. It is trite and well settled principle of law that the litigant should not suffer from receiving substantial justice on the technical ground and the Court should be liberal while condoning the delay, if the *bona fide* and substantial reasons are assigned by the applicant. Therefore, I am inclined to condone the delay of 26 days caused in filing the appeal. Accordingly, I proceed to pass the following order:

ORDER

- I) The Civil Application is hereby allowed.
- II) The delay of 26 days caused in filing appeal is hereby condoned.
No order as to costs.
- III) The applicant shall not be entitled for the interest for the delayed period.
- IV) Office is directed to register the first appeal and place it before the Court for further action.

[Y.G. KHOBRADE, J.]