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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4224 OF 2014

IN

FIRST APPEAL ST NO. 33670 OF 2013

Namdeo Ramchandra Gunjal

.....Applicant

V/s.

Union of India Through its General Manager

.....Respondent

None for the Applicant.

Mr. Dheea Sampat i/b Mr. T. J. Pandian Advocate for the Respondent.

CORAM : GAURI GODSE, J.

DATE : 17th OCTOBER 2022

P.C.

1. This Civil Application is filed for condonation of delay of 4 years and 140 days in filing the First Appeal. Appeal is filed by the original claimant as his Application under Section 23 of the Railways Claims Tribunal Act, 1987 was dismissed on 17th April 2009. Notice of the Civil Application is served upon the Respondent. Learned counsel appearing for Respondent No. 1 states

that he needs time to file reply.

2. This Application is of the year 2013 and as per learned Advocate for the Respondent, notice of this Application was served upon them in the year 2014. It appears that till date there is no reply filed. Since the Application is pending for a very long time, liberty is granted to learned Advocate to oppose the Application by making oral submissions that were proposed in the proposed affidavit-in-reply. He states that Application is filed after a huge delay of 4 years and 140 days by relying upon a medical certificate which is issued in the year 2013. He submits that the impugned order is of the year 2009 and there is no satisfactory explanation as to the delay caused from the year 2009.

3. I have perused the Application and specifically paragraph no. 4 of the Application which states that Applicants belong to Wadar community who always wander from place to place for search of work as labourers. It further states that at the time of Application both the Applicants were above age of 65 years. It also states that they face difficulty also in procuring their daily meals due to paucity of funds. The averments in paragraph no. 4 also states that Applicant was suffering from Lumbago and Sciatica from 1st April 2009 to 4th August 2012 and due to such circumstances, it was not possible for the

Applicants to approach this Court within time. Though the medical certificate is only for the limited period of illness, I find that considering other circumstances stated in paragraph no. 4, this Application deserves to be allowed.

4. Hence, Application is allowed in terms of prayer clause (a) which reads thus:

“(a) Condone the delay of 4 years and 140 days in filing this appeal in the interest of justice.”

5. Considering the facts of the case and the nature of the claim, it will be in the interest of justice to hear and decide the Appeal finally at admission stage. Parties are put to notice that endeavor will be made to decide the Appeal finally at admission stage. Office to register the Appeal and place the same on admission board.

[GAURI GODSE, J.]