

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.2230 OF 2022

IN

FIRST APPEAL (ST) NO.7161 OF 2020

{Union of India and Ors. **..Vrs..** Jyotsna W/o. Ashok Deshmukh and
Ors.}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri V. M. Gadkari, Advocate for the Applicants/Appellants.
 Shri S. S. Sohoni, Advocate for the Respondent No.1.
 Shri M. A. Kadu, AGP for the Respondents No.2 and 3.

CORAM : ABHAY AHUJA, J.

DATE : 6th OCTOBER, 2022.

1. By this application, the Appellant/Railway is seeking to deposit the entire amount of compensation in this Court.

2. Let the amount of compensation be deposited within a period of one week from today. The civil application accordingly stands disposed.

CIVIL APPLICATION (F) NO.547 OF 2021.

3. This is an application seeking condonation of delay of 321 days in filing the appeal against the judgment and order dated 11.06.2019, passed by the Civil Judge Senior Division, Wardha in LAC No.114 of 2013.

4. When this matter was listed on the earlier occasion on 05.01.2022, this Court had observed as under :

“03] By this application, the Appellants have sought to condone the delay of 321 days in filing the appeal.

04] The record indicates that the judgment was passed on 11.03.2019. In paragraph 3 of the application, the Applicants have stated that after taking the legal opinion, the Legal Department at Nagpur was instructed on 11.06.2019 to file the appeal in the matter.

05] The appeal has been filed on 31st July, 2020 i.e. after a period of one year from the date of legal opinion and the instructions given by the Head Office. No reasons are stated for not filing the appeal for a period of one year from the date of the instructions given by the Head Office. The application for condonation of delay has been filed in a most causal manner. The Applicants to file a detailed affidavit specifying the reasons for the delay and the persons concerned for causing the delay.

06] Stand over to one week.”

5. Pursuant to the said order, an affidavit dated 12.01.2022 has been filed by the Railway Administration. Learned counsel for the Appellants/Railways draws the attention of this Court to paragraphs 3 to 11 of the affidavit in support of his contention to condone the delay. It is stated in the affidavit that the application for certified copy of the impugned judgment dated 11.06.2019 was filed on 28.06.2019, which was received on 02.07.2019. This was sent by the earlier counsel to the Office of the Deputy Chief Engineer (Construction), Central Railway at Nagpur on 08.07.2019, which was received on 10.07.2019. Thereafter, the Deputy Chief Engineer sent the same to the Head Quarter at CST, Mumbai for obtaining legal opinion on 12.07.2019. The legal opinion was given on 17.07.2019 and

the same was received by the Office of the Deputy Chief Engineer at Nagpur on 20.07.2019. Thereafter, on 05.10.2019, the Panel Advocate was requested to submit an amount of Court fees and other expenses to file the appeal, which was received by him on 16.10.2019. On 22.10.2019, the Panel Advocate submitted the details. After receipt of the details, the proposal was forwarded seeking sanction and approval, which was received by the Deputy Chief Engineer, Nagpur on 30.11.2019. This was forwarded to the Office of the Deputy Financial Advisor and Chief Accounting Officer and the vetting process statedly concluded on 06.02.2020. Thereafter, the pay order was released on 20.02.2020 and the same came to be encashed and paid to the Panel Advocate on 17.07.2020.

6. It is submitted that during the period from 20.03.2020 till 30.06.2020, due to the outbreak of the Covid-19 Pandemic, all the Administrative activities except highly necessary operations stood stand still and the offices were working with minimum staff, and therefore, the delay. It is also submitted that it is only from 01.07.2020, that the Government Offices were permitted to work with increased staff, and therefore, on 17.07.2020 Court fees and other expenses were paid to the Panel Advocate for filing the appeal. After which, the appeal came to be drafted and filed on 30.07.2020. Learned counsel would submit that in this backdrop and the explanation given, the delay may be condoned and the appeal be registered.

7. Having heard the learned counsel at length and having

perused the additional affidavit as above, let the delay of 321 days be condoned. Let the appeal be registered within a period of two weeks.

FIRST APPEAL (ST) NO.7161 OF 2020.

8. Let a copy of the memo of appeal alongwith complete annexures be served upon respondents within a period of two weeks thereafter and an affidavit of service alongwith tangible proof be filed by the next date.

9. List the matter **14.11.2022**.

(JUDGE)

TAMBE