

10.5.2019 but she could not come to sign the documents till 24.1.2020.

Paragraph No.2 of the application is reproduced below :-

“2. That the appellant/applicant is a lady and she was pursuing the complaint through her special power of attorney Gurmail Singh as she is not aware about the legal proceedings and when the complaint was dismissed by the Ld. Court below, she came to know about that after long time and was also not aware that there is limitation for filing the appeal in the Hon'ble High Court. Thereafter, the appeal was filed on 10th May, 2019 and she could not come to the counsel for signing the documents/affidavits. Now on 24.01.2020, she came to sign the documents/affidavits and now the present appeal is being filed in this Hon'ble Court.”

The following decisions of the Supreme Court would be relevant for deciding the present application :-

*The Supreme Court in **Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC 459**, held as under :-*

“8. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law

in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate.

In case of Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534, the Supreme Court has held that the delay in filing the appeal or revision cannot and shall not be mechanically considered and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be condoned.

The Supreme Court in State of Nagaland v. Lipok Ao, 2012 (3) RCR (Civil) 73: 2012 (2) Recent Apex Judgments (RAJ) 482: 2012 (5) SCC 157, in paragraph 24 has held as under:

"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

In P.K. Ramachandran v. State of Kerala & Anr., 1997(4) R.C.R.(Civil) 242 : AIR 1998 SC 2276, the Supreme Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under :-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds."

.....(emphasis supplied)

The explanation given for condoning the delay is not worth acceptance. No date or details have been mentioned as to how and when the complainant gained knowledge about the dismissal of the complaint. There is another aspect to be looked into that even after gaining the knowledge of dismissal of the complaint, she took eight months for signing the documents for filing the appeal. There is no explanation whatsoever worth, given to explain this delay.

The law is well settled that the delay cannot be condoned mechanically. In absence of any satisfactory explanation for condonation of delay, no case is made out for condoning the delay.

Application for condonation of delay is dismissed.

Consequently, the application for leave to appeal is also dismissed.

[AVNEESH JHINGAN]
JUDGE

25th April, 2022
anuradha

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No