

15.12.2023

MAT 236 of 2019
With
CAN 1 of 2023
With
CAN 2 of 2023

M/s. Eastern Coalfields Limited
Vs.
Sudesh Chouhan @ Sudesh Kumar Chouhan & Ors.

Mr. J.N. Dasgupta
Mr. Bijoy Kumar

... .. for the appellant

Mr. Partha Ghosh
Mr. Amal Kumar Dutta
Ms. Simran Sureka
Mr. Debashis Das

... .. for the respondents

1. Heard learned counsel for the applicant/appellant and learned counsel for the respondents on delay condonation application (CAN 2 of 2023).
2. This appeal is reported beyond limitation by 116 days.
The only explanation for delay has been offered in paragraph 3 of the delay condonation application which is reproduced below.

“3. That your petitioner states that the matter was assigned to the Learned Advocate Mr. Bijoy Kumar, Advocate. After receiving the order from the department, the Learned Advocate has forwarded the same to the Sales Office at Kolkata Office, 13, R.N. Mukherjee Road, Kolkata – 700001. The Sales Office forwarded the said order to the Head Quarter of Eastern Coalfield Ltd. at Sanctoria, Dishergarh, Burdwan. The Head Quarter of Easter Coalfield Ltd. then sought opinion from the Learned Advocate Mr. Bijoy Kumar. After receiving opinion the same process was followed and requested the Learned Advocate for preparing Appeal, Stay Application and all other applications. The Learned Advocate Mr. Bijoy Kumar has took about four week time in preparing Stay Application, Memorandum of Appeal and Other Applications.”

3. Perusal of the explanation offered by the applicant/appellant is totally vague on the very face of it and, therefore, delay cannot be condoned.
4. Apart from above, aforementioned intra-court appeal has been filed challenging an interim order dated 24.10.2017 passed by the learned Single Judge in Writ Petition No. 20409 (W) of 2017 (Sudesh Chouhan @ Sudesh Kumar Chouhan Vs. M/s. Eastern Coalfield Limited and five others). By the aforesaid interim order, the respondents have been directed not to proceed any further with the charge-sheet dated 17.03.2017 which was issued questioning the employment on the basis of a complaint made after 27 years of the appointment of the respondent/writ petitioner. We repeatedly requested the learned advocate for the appellant to apprise us that under which provision this intra-court appeal has been filed? Learned counsel for the appellant despite being repeatedly requested, has not apprised the Court the provision under which appeal has been filed. Thus, it is not known that under which provision the appeal has been filed and also that how an intra-court appeal against an interim order is maintainable? The writ petition is stated to be is still pending disposal before the learned Single Judge. Therefore, this appeal is not even entertainable.

5. For all the reasons aforesaid, the delay condonation application being CAN 2 of 2023 is rejected and consequently the appeal stands dismissed. Pending application, if any, also stands dismissed. However, we leave it open to the appellant to make a request before the learned Single Judge for early hearing of the writ petition.

(Surya Prakash Kesarwani, J.)

(Rajarshi Bharadwaj, J.)