

**20.03.
2023**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WP.ST 40 of 2023

**Sandip Chakraborty
Vs.**

The State of West Bengal and others.

Mr. Bhaskar Chandra Manna.

... for the petitioner.

**Mr. Tapan Kumar Mukherjee, Ld. AGP,
Mrs. Saheli Mukherjee.**

... for the State.

Astonishingly, an application for condonation of delay filed by the petitioner is dismissed as the original application was filed beyond the period of limitation and, therefore, the application for condonation of delay is not maintainable.

The moment the power is conferred upon the Tribunal to condone the delay, it implies that such power is exercised in a case where the original application is taken out beyond the period of limitation provided therefor. There is no period of limitation provided in filing an application for condonation of delay. Such application is necessitated in the event the original application is filed beyond the statutory period and, therefore, the perception of the learned Member of the Tribunal that the application for condonation of delay having filed after the original application is not maintainable is beyond the conceivable law.

Section 21(3) of the Administrative Tribunals Act bestowed power upon the Tribunal to condone the delay in not filing an application within time provided under sub-section (1) clause (a) or (b) of the said Act. If such

power is conferred, it does not indicate that the application for condonation of delay must be accompanied with the application under Section 19 of the said Act.

Since no separate period of limitation is provided in the statute for taking out an application for condonation of delay, it is inconceivable that the said application would still be regarded as not maintainable having filed after the institution of the original proceeding.

We, therefore, set aside the impugned order.

MA 39 of 2022 and OA 890 of 2018 are restored to its original file and number.

The Tribunal is directed to consider the application for condonation of delay (MA 39 of 2022) afresh after giving an opportunity of hearing to the respective parties and shall dispose of the same by recording reasons on merit within four weeks from the date of communication of this order.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

