

28.02.2025
Court No.23

DL/Item No.-5

[Milan, A.R. (Ct.)]

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 15872 of 2022
With
CAN 2 of 2024
With
CAN 3 of 2024

Dipak Karmakar
versus
M/s. Eastern Coalfields Limited & Ors.

Mr. Santanu Chatterjee,
Mr. Rajendra Kr. Nandi
.....for the Petitioner
Mr. Manik Das
.....for the Respondents

Re: CAN 3 of 2024

The petitioner has also filed an application being CAN 2 of 2024 for restoring the writ petition to its original file and number by recalling the order dated 27th April, 2023 by which the writ petition was dismissed for default. This application being CAN 3 of 2024 is for condoning the delay in filing the application being CAN 2 of 2024. On a conjoint reading of Articles 122 and 137 of the Limitation Act, 1963, I find that the time period for thirty days for restoring a suit, appeal, an application for review or an application for revision as provided under Article 122 is not applicable in case of an application for recalling of the order of dismissal of a writ petition and restoration of the same to

its original file and number. The application for recalling of an order is governed under the provisions of Article 137 of the Limitation Act, 1963 for which the limitation period is three years from the date of accrual of cause of action in this case the dismissal of the writ petition for making such application. The cause of action in the instant case arose on 27th April, 2023 when the writ petition was dismissed for default. The application for restoration has been filed on 20th May, 2024 i.e., within three years from the accrual of cause of action.

In that view of the matter, application for condonation of delay is not necessary. The said application being CAN 3 of 2024 is disposed of without any orders.

In re: CAN 2 of 2024

This is an application for restoration of the writ petition which was dismissed for default on 27th April, 2023. The application for restoration was filed on 20th May, 2024.

After going through the explanation given, I find that the applicant/writ petitioner was prevented by sufficient cause from appearing before the Court when the matter was taken up and ultimately dismissed for default. In such circumstances, the order dated 27th April, 2023 is hereby recalled. The writ petition being WPA

15872 of 2022 is restored to its original file and number.

CAN 2 of 2024 stands disposed of accordingly.

(Arindam Mukherjee, J.)