

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

CIVIL APPLICATION (F) NO.3102 OF 2019

IN

FIRST APPEAL (ST) NO.7508 OF 2019

[Pushpa w/o Abhiraj Vishwakarma ..V/s.. Union of India]

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

Court's or Judge's order

Mr R. G. Bagul, Advocate for Appellant.
Ms N. Chaubey, Advocate for Respondent.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 28th APRIL, 2023.

1. Application is for condonation of delay of 248 days, which is caused in preferring the appeal against the judgment and award passed by the Railway Claims Tribunal.

2. The application is filed on the ground that the earlier Advocate engaged by the claimant was from Jalgaon District and there was no communication from him, therefore the appellant was not aware about the disposal of the claim petition. Moreover, he was facing financial constraints as earlier he has to deposit the Court fee stamp. Now, in view of the judgment of this Court, the issue regarding the Court fee is decided as that claimant is liable to pay Court fee governed by the provision of Article 13 of Schedule 2 of the Maharashtra Court Fees Act, 1959 on the memorandum of appeal, when the appeal is not from decree or an order having the course of decree and presented to the High Court. It is further submitted that the delay caused is satisfactory and reasonable cause and hence the delay be condoned.

3. The said application is strongly opposed by the learned Advocate for respondent on the ground that the delay is not

properly explained.

4. Heard both the sides. Perused the application. Considering that claimant has claimed the compensation under the beneficial legislation and as he was facing financial constraints, he could not arrange the money to deposit the Court fee stamp, therefore the delay of 248 days is caused. Considering the claimant is claiming the compensation under the beneficial legislation he cannot be deprived of from claiming the same for technical reasons.

5. In view of the above, the application is allowed and the delay of 248 days is hereby condoned. Appeal be registered and numbered accordingly.

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6. Heard.

7. Call for Record and Proceedings.

8. Considering the issue involved in the appeal, the appeal can be disposed of at the admission stage itself.

9. Appeal be placed before the Court for final disposal after receipt of record and proceedings.

JUDGE.