

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 4513/2019 IN FIRST APPEAL
STAMP NO. 20418/2019

Janglu s/o Ghaman Karlekar Vs Union of India, thr. GM. Western Railway, Mumbai.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs U.A. Bhattad, counsel for the applicant/appellant.

Ms Mrunal Tighare, counsel h/f Mr N.P. Lambat, counsel for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/03/2023.

1. Heard.
2. This application is filed by the applicant for condonation of delay of 126 days which is caused in preferring the appeal against the judgment and award passed by the Railway Claims Tribunal, Nagpur.
3. As per the contention of the applicant, the applicant has filed an application before the Railway Claims Tribunal for grant of compensation, on account of accidental injuries sustained by him.
4. As per the contention of the applicant, he was travelling from Puna to Akola having bonafide ticket, he met with an untoward accident and sustained grievous injuries. However, the Railway Claims Tribunal had not considered the same and rejected his application.

5. Due to the financial crises, he could not approach the Court and file the appeal. Therefore, delay of 126 days is caused in preferring the appeal. Delay is not an intentional one. There is just and sufficient reason for the condonation of delay.

6. The said application is strongly opposed by Mrunal Tighare, Advocate h/f Mr N.P. Lambat, learned advocate for the respondent submitted that the delay is not properly explained. There is no justifiable reasons for condonation of delay. Hence, civil application deserves to be rejected.

7. Heard both the sides. Perused the application.

8. It is apparent that, the present applicant had filed an application for grant of compensation on account of accidental injuries sustained by him in an untoward incident. The Railway Claims Tribunal after recording the evidence rejected the plaint, and therefore, the applicant has preferred this application along with this appeal, however, there is a delay of 126 days. As per the contention of the applicant, as he met with an accident and has no source of income. Therefore, he could not arrange the amount for filing the appeal and to bear the cost of the litigation. Therefore, a delay of 126 days is caused. It is well settled that, while considering the delay application, the liberal approach is to be taken not the pentadic approach.

9. Considering the settled position of law that filing of the appeal is the statutory right and the applicant cannot be

deprived of filing the appeal for technical reasons. A liberal approach is to be taken to do the substantial justice. In view of the above, the application deserves to be allowed. A delay of 126 days is condoned.

Civil application (CAF) No.4513/2019 is disposed of.

JUDGE