

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 14817 OF 2023
IN
FIRST APPEAL (ST) NO. 17149 OF 2023**

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Anita Abhinav Srivastava

... Appellant

Vs.

Union Of India Through Railway Minister And
Ors.

... Respondents

Adv. Nitesh S. Nevshe, for the Appellant.

None for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 13th FEBRUARY, 2024

P.C.:-

1. Heard for quite sometime. This Application is filed seeking condonation of delay of 6 years 89 days caused in challenging the Judgment and Order passed by the Railway Claims Tribunal rejecting the Application for condonation of delay in filing the Claim Application. The Order under challenge is passed on the Application seeking condonation of delay of 9 years 6 months and 22 days caused in approaching the Railway Claims Tribunal. The reasons assigned in the said Application were that the Applicant was in search of employment, secondly that her in laws had declined to sign the Application, third she had no knowledge that she can file such an Application before the Tribunal seeking compensation. The

Railway Claims Tribunal observed that there is no sufficient cause pointed out preventing the Applicant from approaching the Tribunal.

2. In the present Application again there is delay of 6 years and 89 days. The reason assigned are that the learned Tribunal has not followed proper procedure. *Secondly* the Order is passed in violation of principles of natural justice, equity and good conscious and the Orders passed against the provisions of law. So far as delay is concerned it is stated that the appellants daughter was minor. Secondly that her in laws are not keeping good relations with her and therefore that the appellant had to look after the daughter and for that reason she could not approach this Court in time.

3. The learned Advocate for the Appellant has relied upon the Judgment reported in 1987 SC 1353 in the case of ***Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and Ors.*** The delay of 17 years was condoned in the facts of that case. He further relied upon the Judgment in the case of ***Durgadas Bajiraoji Mokhade vs. Jayshri Hemraj Agrawal reported in Bom. C.R. 388(Nagpur Bench).***

4. In the case of Collector Anantnag, the Apex Court has held that the length of delay is not material when there is sufficient cause shown. It is further held that matter be decided on merits to serve the ends of justice. In the case of Durgabdas the delay of 11 years was caused and that was condoned in the facts of that case.

5. Coming to the present case, it is seen that no sufficient reason

is shown that the Applicant was prevented from approaching this Court within time. Even approaching the Court at the first instance after 9 years and 6 weeks shows that the Applicant was not diligent in prosecuting the remedy. It is tried to be shown that the Central Government has declared to pay compensation of Rs.5,00,000/- and the State Government has also declared Rs.1,00,000/- compensation to the victims of a bomb blast of 2006 in Mumbai.

6. This Court find that to get that compensation the remedy is not to approach under Railway's Act seeking compensation. The present proceeding was for dealing compensation under the Railways Act. Therefore, the submission that money in the name of the Applicant is already lying with the Railways does not hold any water.

7. Considering the above position, this court finds that no case is made out to condone the delay. The Application deserves to be dismissed. No order as to costs.

(KISHORE C. SANT, J.)