



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

CIVIL APPLICATION NO.812/2024 IN FIRST APPEAL ST. NO.2250/2024

Maharashtra State Road Transport Corporation, thr. Divisional Controller,
Divisional Office, Arni Road, Yavatmal .Vs. Manish Kailasrao Bele and anr.

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

Court's or Judge's orders

Mr. A. S. Mehadia, Advocate for applicant.

CORAM : **ANIL L. PANSARE, J.**

DATE : **24.04.2024**

Heard Mr. A. S. Mehadia, learned counsel for applicant.

2. The applicant – Maharashtra Sate Road Transport Corporation (hereinafter referred to as the, “MSRTC”) has filed the present application under Section 5 of the Limitation Act, 1963 to condone the delay of 203 days in filing the appeal against the judgment and award dated 29.03.2023, passed by the learned Motor Accident Claims Tribunal, Darwha, district Yavatmal in Claim Petition No.1/2018.

3. Following are the reasons assigned for condoning the delay.

“2. That the appellant is a State Government undertaking and before taking any decision to challenge the award, the appellant is required to take approval from the head office of the appellant. The appellant after passing of the impugned award has communicated to the head office situated at Mumbai for its opinion.

3. *Hence considerable time was consumed in getting the approval form head office and immediately after receipt of the opinion the appellant has arranged for necessary court fees to be paid and the statutory amount to be deposited in this Hon'ble Court."*

4. As could be seen, the applicant has not assigned any cause, muchless, sufficient cause, except to state that before taking any decision to challenge the award, the applicant is required to take approval from the head office and, accordingly, case papers were sent to the head office at Mumbai. Considerable time was consumed in getting approval and on receipt of the approval, the applicant arranged necessary court fee and filed the appeal.

5. To my mind, the reasons put forth by the MSRTC will only show the casual and negligent manner, in which the sensitive case, which deals with the impact of accident on citizen's life, is being dealt with by the officers of the MSRTC. Most time is spent in seeking opinions of the counsels and in transferring case papers from one office to another. This cannot be said to be a sufficient cause to condone the delay.

6. The Supreme Court in the case of *State of Madhya Pradesh And Others Vs. Bherulal [(2020) 10 SCC 654]* has held that law of limitation binds everybody including the Government and deprecated the practice of keeping the file pending for several months on the ground of administrative exigencies.

7. The effect of delay has been explained by the Supreme Court in the case of *Ramlal Vs. Rewa Coalfields Ltd.* [AIR 1962 SC 361]. The Supreme Court, while interpreting Section 5 of the Limitation Act, held that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired, the decree-holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be lightheartedly disturbed. Thus, in the absence of sufficient cause, legal right, which has accrued in favour of the decree-holder by lapse of time, should not be lightheartedly disturbed.

8. On the point of condoning delay by imposing conditions, the Supreme Court in the case of *Basawaraj and anr. Vs. The Spl. Land Acquisition Officer* [AIR 2014 SC 746], held as under:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided

only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

9. Thus, the Supreme Court has held that in case there was no sufficient cause to prevent a litigant to approach the court on time, condoning the delay without any justification, imposing any condition whatsoever, amounts to passing an order in violation of the statutory provision and it tantamounts to showing utter disregard to the legislature. Thus, to condone delay by imposing costs or otherwise will amount to passing order in violation of the statutory provisions.

10. The Supreme Court in the case of *Pathapati Subba Reddy (supra)* has, on the law of limitation, observed in paragraph 16 as under:

“16. Generally, the courts have adopted a very liberal approach in construing the phrase ‘sufficient cause’ used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In Collector, Land Acquisition, Anantnag and Ors. v. Katiji and Ors. MANU/SC/0460/1987: 1987: INSC:54: (1987) 2 SCC 107 : AIR 1987 SC 1353, this Court in advocating the liberal approach in condoning the delay for ‘sufficient cause’ held that ordinarily a litigant does not stand to benefit by lodging an appeal

late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of 'sufficient cause' for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and reopened by taking aid of Section 5 of the Limitation Act."

11. Thus, the Supreme Court has, in clear terms, held that existence of sufficient cause for not filing the appeal in time is a condition precedent for exercising discretionary power to condone the delay. The Court further clarified that the phrases 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

12. If the reasons assigned by the applicant are examined on the touchstone of the provisions of the Limitation Act, 1963 read with the judgment referred to above and Section 10 of the Act of 2005, every officer handling the case papers will be responsible for action in terms of Section 10 (2) and (3) of the

Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short “the Act of 2005”). Section 10 of the Act of 2005 reads thus:

“10. (1) Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most diligently and as expeditiously as feasible:

Provided that, normally no file shall remain pending with any Government servant in the Department or Office for more than seven working days:

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days:

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(2) Any wilful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of official duties and shall make such Government servant liable for appropriate 1. [disciplinary action under the All India Services (Discipline and Appeal) Rules, 1969, the] Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

(3) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.”

13. As could be seen, sub-section (1) of Section 10 of the Act of 2005 provides that every Government servant shall discharge his official duties assigned or pertaining to him most diligently and expeditiously and that no file shall remain pending with any Government servant in the department, usually for more than seven working days. Thus, additional time taken will have to be properly justified. In addition, Rules 10 to 13 of the Maharashtra Prevention of Delay in Discharge of Official Duties Rules, 2013 provide for detailed mechanism to prevent/avoid delay. Despite such a provision and several judgments of the Supreme Court deprecating casual approach in processing files, there is no improvement.

14. There is a reason for the same and the reason is not taking action provided under sub-sections (2) and (3) of Section 10. It is unfortunate that the effect of sub-section (1) of Section 10 has been neutralized by not taking recourse to sub-sections (2) and (3) of Section 10. Resultantly, the casual approach of Government servants continue.

15. In the present case, the applicant failed to show sufficient cause in approaching the Court belatedly and further the officials have exposed themselves for appropriate action in terms of Section 10 (2) and (3) of the Act of 2005 for showing utter disregard to the purport of provisions made under Sub-Section (1) of Section 10 of the Act of 2005, coupled with judgments referred to above.

16. The application is, therefore, liable to be rejected and stands rejected accordingly.

17. The applicant shall deposit, with the concerned Tribunal, the decretal amount within eight weeks from today under intimation to the claimants.

18. The copy of order be served upon the Vice Chairman and Managing Director, Maharashtra State Road Transport Corporation, Mumbai, Maharashtra Transport Building, Dr.Anandrao Nair Marg, Mumbai Central, Mumbai - 400 008, for taking appropriate action, in accordance with Section 10 of the Act of 2005 and, if so advised, may proceed to recover the amount of additional cost of interest from the erring officials, of course, after giving an opportunity of hearing to the officials concerned. The order shall be complied by 30.06.2024. Reporting compliance of the instant order will be appreciated.

(Anil L. Pansare, J.)