



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

CIVIL APPLICATION [CAF] NO.3456 OF 2024

IN

FIRST APPEAL ST. NO.22110 OF 2024

[Sahebrao s/o Narayan Sawant and one .vs. Union of India, Through its General Manager, South
Central Railway, Secunderabad]

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

Court's or Judge's orders

Mr. D.S. Lambat, Advocate for Appellants.
Ms. N.G. Chaubey, Advocate for Respondent.

CORAM : SANJAY A. DESHMUKH, J.
DATE : 6th DECEMBER, 2024.

1. This is an application for condonation of delay of 916 days caused for filing the first appeal.
2. Perused the application.
3. Heard the learned advocates for both sides.
4. Learned advocate for applicants pointed out the grounds stated in the application. He submitted that earlier advocate Shri Harishchandra Barhalikar was suffering from severe paralytic attack and he was hospitalized for the long period and, therefore, the applicants could not get the information about their application for compensation. In the year 2020 to 2022, there were frequently lock down because of Covid-19 pandemic. Therefore also the applicants could not file the application within limitation. Learned advocate for applicants pointed out the directions given by the Hon'ble Supreme Court in Suo Motu Writ Petition No.(Civil) 3/2020 to recognize and consider the period of limitation which, according

to the Supreme Court, deemed to be extended. He submitted that applicants are not responsible for the delay. However, if the delay is not condoned, their valuable rights will remain undecided on merit and they will suffer economic loss. He lastly prayed to allow the application in the interest of justice.

5. The learned counsel for the respondent strongly opposed the application and submitted that there are no sufficient grounds to condone the delay. The delay of day to day is not properly explained. The conduct of the applicants shows that they were not interested in conducting their case, therefore, the delay is deliberately caused. She lastly prayed to reject the application.

6. Perused the application. It is undisputed that learned advocate for the applicants Shri Harishchandra Barhalikar was suffering from severe paralytic attack and he was hospitalized for the long period. The applicants are resident of Nanded. They could not took follow up of the matter. It shows that the delay is not deliberately caused. There was Covid pandemic therefore also the delay was caused. For the mistake of advocate, the party shall not suffer. Their right must be decided on merit. Such application shall be considered liberally in the interest of justice, so that lis shall be decided on merit finally, as held by the Hon'ble Supreme Court in the case of ***Collector, Land Acquisition Anantnag and another .vs. Mst. Katiji and others***, reported in ***AIR 1987 SC 1353*** and in the case of ***Sheo Raj Singh (Deceased) through legal representatives and others .vs. Union of India and another***, reported in ***(2023) 10 SCC 531***. The application therefore deserves to be allowed in the interest of justice. The application is allowed. The delay of 916 days caused for filing the appeal is hereby condoned with

condition that if the claim of the applicants is allowed, they shall not be entitled for the interest of 916 days, as per the judgment of the Supreme Court.

First Appeal St. No.22110/2024

1. Heard.
2. Issue notice to the respondent.
3. Ms. Chaubey, learned advocate waives the notice for the respondent.
4. Call record and proceedings.
5. Filing of the paper book is dispensed with, subject to condition of filing the copies of the depositions on record.

(SANJAY A. DESHMUKH, J.)