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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 27.11.2024***

+ LPA 705/2023, CM APPL. 53481/2023-Delay 189 days, CM APPL. 53483/2023-Stay

UNION OF INDIA & ORS.

.....Appellants

Through: Mr. Sunil Sinha and Ms. Akanksha Chaudhary, Advs.

Versus

CAPT MUNISH CHAUDHARY

.....Respondent

Through: Mr. Naresh Kaushik, Sr. Adv. with Mr. Pushpendra Dhaka, Mr. Anand Singh and Mr. Shantanu Shukla, Advs.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE SAURABH BANERJEE****SAURABH BANERJEE, J (ORAL)**

1. The present appeal under Clause X of the Letters Patent seeks to assail the judgment and order dated 10.01.2023 passed by the learned Single Judge in W.P.(C) 14778/2022.

2. Vide the impugned judgment, the learned Single Judge has allowed the writ petition preferred by the respondent by directing the appellants to consider the case of the petitioner for functioning as a DGR Empanelled Ex-Servicemen Security Safety and Fire Protection Management Agency (hereinafter referred to as 'Agency') under the OM dated 23.02.2006. The said directions have been issued by the learned Single Judge after taking note of the fact that the respondent has been registered with the DGR/appellant no. 3 on 02.12.2008 when admittedly the policy dated 23.02.2006 was applicable.



3. Consequently, the learned Single Judge, relying upon ***Kulwant Singh Security Agency & Anr. vs. Union of India & Ors.*** in W.P.(C) 13205/2018, has opined that the policy applicable at the time of registration of the concerned officers/ retired personnel would be the applicable policy at the time of consideration of one's case for acting as an Agency.

4. Before proceeding for adjudication of the merits involved in the present appeal, at the outset we may note, that the appeal has been filed with an application under Section 5 of the Limitation Act, 1963 (hereinafter referred to as 'Act') seeking condonation of delay of 189 days. Having perused the said application, we find that it is one where the appellant has sought to raise only bald pleas, by urging that the delay in filing the appeal was due to the mandatory departmental approvals required for filing the appeal and was not intentional. It is based on these averments that the learned counsel for the appellants prays that the delay in filing the appeal be condoned.

5. On the other hand, Mr. Naresh Kaushik, learned senior counsel for the respondent opposes the application by urging that the grounds raised by the appellants seeking condonation of delay cannot be treated as sufficient cause. He, therefore, prays that the application itself be dismissed. Further, he submits that once it is an admitted position that the respondent was registered with the DGR/ appellant no.3 on 02.12.2008 which was never *formally* cancelled, it is not open to the appellant to urge that the respondent's registration had to be treated from the year 2014, when he was empanelled as an Agency for the first time, by which time the policy issued vide O.M. dated 23.02.2006 stood superseded by the O.M. issued in 2012.

6. As per the case set up by the appellants, though the impugned



judgment was delivered by the learned Single Judge on 10.01.2023, it was only on 13.06.2023 that the appellants appointed/ nominated its counsel and handed over the relevant documents to him qua the present case. Thereafter, on 04.08.2023, though preliminary discussions were held with the said counsel, nothing material happened as the nominated counsel of the appellant sought the relevant file pertaining to the present case. It was then on 07.08.2023 that the nominated counsel sent the draft to the appellant, which after vetting by the appellant, was eventually filed on 18.08.2023. All in all, the aforesaid led to cause a delay of 189 days in filing the present appeal.

7. In our considered view, the application seeking condonation of delay, besides being not accompanied by any relevant document(s) qua the above, is even otherwise completely bereft of material particulars required for the appellant to seek condonation of this inordinate delay of 189 days in filing the present appeal. To seek the benefit of Section 5 of the Act, the appellants were required to show ‘*sufficient cause*’ which is a pre-requisite, in the form of reasonable and/ or adequate reasons which estopped and prevented the appellant from approaching the Court within the allotted/ prescribed timeframe for filing the appeal, which, in the present case are completely missing since the pleadings made by the appellants in the application under Section 5 of the Act as filed by the appellants are vague and unclear.

8. The Hon’ble Supreme Court in ***Basawaraj vs. Land Acquisition Officer***, (2013) 14 SCC 81, while dealing with the expression ‘*sufficient cause*’ as provided under Section 5 of the Act held as under:-

“11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done,



but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal [(2002) 1 SCC 535 : AIR 2002 SC 100] and Ram Nath Sao v. Gobardhan Sao [(2002) 3 SCC 195 : AIR 2002 SC 1201] .)

*12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.*

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266: "605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence." An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or



laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510] , Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)

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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. Reliance is also placed upon the dictum of the Hon’be Supreme Court in **Ramlal vs. Rewa Coalfields.**, 1961 SCC OnLine SC 39, wherein it has held as under:-

“7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is 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 light-heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the court to condone delay and admit the appeal. This discretion has been deliberately conferred on the court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice. As has been observed by the Madras High Court in Krishna v. Chathappan [(1890) ILR 13 Mad 269] "Section 5 gives the court a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words „sufficient cause“ receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fide is imputable to the appellant.”

10. Furthermore, this Court has also, recently, while dealing with similar circumstances in ***Oriental Insurance Co. Ltd vs. Sharp Mint Ltd*** 2024:DHC:8833-DB wherein the appellant alongwith the appeal preferred an application under Section 5 of the Act seeking condonation of delay, held that a party like the appellant cannot be allowed to avail benefit, especially where the party like the appellant therein had failed to show any sufficient cause for delay in filing the appeal before this Court.

11. In the present case, the appellants, the Directorate General of Re-settlement, which prides itself as being closely connected with the Armed Forces was expected to take expeditious steps for filing the appeal within the prescribed period and cannot be permitted to seek condonation of delay in filing the appeal on the mere ground that various approvals were required before filing of the appeal.

12. In light of this factual matrix, we are inclined to accept the plea of the



respondent that the application seeking condonation of delay does not disclose sufficient cause for this Court to condone the delay of 189 days in filing the present appeal. In our considered opinion, even if the appellants were required to take approvals from the concerned departments, description whereof has not been set out in the application, the same itself would not be a ground for delay of a period spreading over *six months* as has been occasioned in the present case.

13. We, therefore, find no merit in the application seeking condonation of delay. Consequently, the appeal itself, being barred by limitation, is liable to be rejected.

14. At this stage, we may clarify that taking into account that the appeal is being dismissed on the ground of delay itself, we are not expressing any opinion on the rival submissions of the parties qua the merits of the matter.

15. Accordingly, the present appeal alongwith the applications therewith are dismissed, leaving all the parties to bear their respective costs.

(SAURABH BANERJEE)
JUDGE

(REKHA PALLI)
JUDGE

NOVEMBER 27, 2024/rr