



2024:DHC:9248-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 1160/2024, CM APPL. 69276/2024, CM APPL. 69277/2024, CM APPL. 69278/2024, CM APPL. 69279/2024, CM APPL. 69280/2024 & CM APPL. 69281/2024

ASHOK HOTELAppellant
Through: Mr. Krishan Kumar, Mr. Seemant K Garg and Mr. Nitin Pal, Advs.

versus

TRILOKIRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)
27.11.2024

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LPA 1160/2024, CM APPL. 69276/2024, CM APPL. 69277/2024, CM APPL. 69278/2024, CM APPL. 69279/2024, CM APPL. 69280/2024 & CM APPL. 69281/2024

1. The respondent workman was terminated by the appellant. He instituted an industrial dispute which was disposed of, by the learned Labour Court, by award dated 24 March 2012. The learned Labour Court held that the respondent was an employee of the appellant and that he had been illegally terminated. Accordingly, the learned Labour Court awarded ₹ 1 lakh as compensation to the respondent in lieu of reinstatement.

2. The appellant never chose to challenge the said order.

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3. However, the respondent workman, being aggrieved by the compensation awarded by the learned Labour Court, approached this Court by way of WP (C) 5227/2012.

4. By judgment dated 19 October 2022, the learned Single Judge has accepted the petition of the respondent workman and has enhanced the compensation awarded by the learned Labour Court from ₹ 1 lakh to ₹ 10 lakh to be paid within eight weeks, failing which the amount would carry interest at the rate of 12% per annum.

5. It is this judgment which is now sought to be assailed in the present Letters Patent Appeal, which has admittedly been filed after a delay of 626 days.

6. The appeal, needless to say, is accompanied by CM 69280/2024, filed under Section 5 of The Limitation Act, 1963 for condonation of delay in filing the appeal. It is worthwhile to reproduce the entire application, thus:

“1. That the accompanying appeal has been filed under Clause 10 of Letters Patent against the impugned judgement dated 19.10.2022 passed in W.P.(C) No. 5227 of 2012 case titled as "Triloki vs Ashok Hotel" by the Ld. Single Judge, High Court of Delhi. The contents of the same may be read as part and parcel of this application and the same has not been repeated for the sake of brevity.

2. The accompanying appeal has been preferred before this Hon'ble Court with a delay of 626 days and the reasons for the delay in filing the appeal arose due to the facts mentioned in the succeeding paragraphs below.

3. It is submitted that upon the pronouncement of the judgment dated 19.10.2022 by the Ld. Single Judge, the Petitioner did not wish to challenge the same initially before this Hon'ble

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Court as it intended to pay the compensation amount of rupees one lacs to put a quietus to the entire issue.

4. Subsequently, the Respondent filed a Cont. Case No. 261 / 2024 before another bench of this Hon'ble Court, the notice of which was received by the Appellant in the 3rd week of March, 2024. It is submitted that the receiving of the said notice of contempt against the Appellant prompted the Appellant to again peruse the entire case records of the captioned matter.

5. During tracing and searching for the aforesaid records between April to June, 2024, the Petitioner found certain new documents dated back to 1990s which will turn around and clarify the nature of employment of the Respondent. Such documents are also of the nature to even show that how the Respondent misrepresented the Ld. Single Judge and the Ld. Labour Court.

6. Regarding the same, the Appellant is a Govt. of India undertaking is bound by its procedure and sought legal opinion in the last week of June, 2024 as to the viability of challenging the impugned judgment. After having various discussions with its counsels regarding the filing of the captioned Appeal, the Appellant engaged the services of its counsels for drafting, filing and contesting the Appeal.

7. After their appointment, the counsels drafted the Appeal in July, 2024 and sent the same to the Appellant for perusal and approval of the same. Pursuant thereto, various meetings were held between the officials of the Appellant and the undersigned counsels for finalization of the Appeal for filing before this Hon'ble Court.

8. It is pertinent to note that various revisions were carried out in the draft of the accompanying Appeal which was finalized by the Appellant and its counsels on 09.08.2024.

9. That upon getting approval from the competent authority, verified and signed by the concerned signing authority, the appeal has been filed before this Hon'ble Court.

10. It is submitted the above series of events resulted in a delay of 626 days in filing the present appeal upon expiration of the maximum prescribed period of limitation only due to aforesaid reasons which were beyond the control of the Appellant.

11. That the appellant has prima facie very good case on merits and in the interest of justice, it is requested that this application be allowed, and delay of 626 days in filing the present appeal from the date of passing the impugned order be condoned and the matter

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may kindly be heard on its merits in the interest of justice.

12. That the delay in filing the appeal is neither intentional nor willful but due to the good and sufficient reason shown herein above.

13. That irreparable loss and injury shall ensue to the Appellant if the delay is not condoned as the complainant has a good case in its favour.

PRAYER

In the light and circumstances mentioned hereinabove, this Hon'ble Court may be pleased to:

a) Allow the present application and condone the delay of 626 days in filing the captioned appeal against the judgment dated 19.10.2022 passed in W.P.(C) No. 5227 of 2012 case titled "Triloki vs Ashok Hotel" by the Ld. Single Judge, High Court of Delhi;

b) Any such other orders as deemed fit and proper in the facts and circumstances of the case may kindly also be passed."

7. We have heard Mr. Krishan Kumar, learned Counsel for the appellant at length on this application.

8. There is not even a semblance of a sustainable argument, in the application, for condonation of delay as exorbitant as 626 days.

9. In fact, the submission at para 3 of the application makes for truly surprising reading. The award of the learned Labour Court, for compensation of ₹ 1 lakh to the respondent workman having been enhanced by the High Court, in its judgment dated 19 October 2022, to ₹ 10 lakhs, defies comprehension as to how the appellant could ever have considered "putting a quietus to the entire issue" by payment of compensation of ₹ 1 lakh. *Prima facie*, this submission denotes a woeful lack of respect for the order passed by this Court, which has

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specifically enhanced the compensation to ₹ 10 lakhs, especially as it is not the appellant's case that the respondent ever approached it with an offer to settle the matter for ₹ 1 lakh.

10. Apart from this, there is no submission in the application, worth its name, for condoning the delay.

11. As a result, we are not inclined to condone the delay.

12. Mr. Krishan Kumar sought to submit that the judgment of the learned Single Judge is void, as the award of the learned Labour Court travelled beyond the scope of reference. We are unaware of any law by which, without challenging a judgment of a learned Single Judge of the Court, the judgment is rendered void.

13. The issue of whether the award of the learned Labour Court as well as the judgment of the learned Single Judge travelled beyond the scope of reference could be examined on merits only if the appeal were filed within time or with such delay as could reasonably be condoned in the facts of the case.

14. What, in fact, appears to have happened in the present case is that, as the respondent is a workman and the appellant is a 5-star luxury hotel run by the ITDC, the appellant remained complacent that the respondent would not be in a position to enforce the judgment of the learned Single Judge. It was only when the respondent mustered the courage to file a contempt petition that the appellant, finding the sword of Damocles hanging over its head, decided to approach the



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court by way of LPA, with an entirely unbelievable ground for condonation of delay of 626 days.

15. We, therefore, unequivocally, reject the application seeking condonation of delay. Accordingly, the appeal is also dismissed on the ground of delay without going into merits.

16. To our mind, the present appeal is not only unjustified but also amounts to harassment of the respondent workman, who has already suffered 5 years of litigation before the learned Labour Court and 10 years of litigation before this Court.

17. We are, therefore, inclined to award costs in this matter.

18. However, instead of doing so, we direct explicit compliance of the order passed by the learned Single Judge by payment of the entire amount payable to the respondent in terms of the said order, principal as well as interest, within a period of one week from today, failing which the appellant would be further mulcted with costs of ₹ 50,000/- in favour of the respondent.

19. The appeal stands dismissed in the above terms *in limine*.

C.HARI SHANKAR, J.

GIRISH KATHPALIA, J.

NOVEMBER 27, 2024/ar

[Click here to check corrigendum, if any](#)

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