

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Miscellaneous Appeal No. 3533/2022

1. North Western Railway through its General Manager, NWR, Head Quarter, Jawahar Circle, Jaipur 302014.
2. Additional Divisional Railway Manager, North Western Railway, Divisional Railway Manager Office, Near Agrasen, Circle, Bikaner-334001.
3. Senior Divisional Engineer-North, North Western Railway, Near Agrasen Circle, Bikaner-333001.

-----Appellants

Versus

Dilbag Sigh Contractor, S/o Shri Tek Ram, R/o-9-C, Friends Colony, Hissar, Haryana.

-----Respondent

For Appellant(s)	:	Ms. Manjeet Kaur
For Respondent(s)	:	Mr. Jatin Agarwal along with Ms. Anita Goyal

**HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

Order

22/05/2024

1. Matter comes up on Civil Miscellaneous Application under Section 5 of Limitation Act for condoning the delay of 168 days in filing D.B. Civil Miscellaneous Appeal.
2. It is contended by counsel appearing for the appellants that there was a change in the panel of lawyers representing the Indian Railways, the handing over of the record to the new panel of lawyers and thereafter, engagement of new panel of counsels took time. The delay was unintentional and therefore, it should be condoned.

3. Counsel appearing for the respondent contends that order was passed in presence of the counsel for the appellant. There is no mention in the application as to when the panel of lawyers was changed.

4. Counsel for the respondent has placed reliance on "Government of Maharashtra vs. Brose Brothers Engineers And Contractors Private Limited" **(2021) 6 Supreme Court Cases 460**, wherein delay of 131 days and 75 days in filing an appeal under Section 37 of the Arbitration and Conciliation Act, was not condoned by the Apex Court.

5. We have considered the contentions and have perused the application.

6. In the application, it is only mentioned that there was change in panel of lawyers representing Indian Railways. There is no date mentioned as to when the panel of lawyers was changed. As per the record, it is evident that order was passed on 21.04.2022, in presence of counsel for the appellant and copy of the order was also received on 27.04.2022. The application is not having any particulars with regard to the receipt of the copy of order, the date of change of panel of lawyers and the date of handing over of the files to the newly recruited panel lawyer of the Indian Railways.

7. Taking note of the fact that award is nearly for a sum of around Rs.11 lacs and the award was passed way back in the year 2018, we are not inclined to entertain the application filed under Section 5 of the Limitation Act for condoning the delay of 168 days in filing Civil Misc. Appeal.



8. Civil Miscellaneous Application under Section 5 of the Limitation Act is dismissed.

9. Civil Miscellaneous Appeal as being barred by limitation also stands dismissed. Civil Miscellaneous Stay Application stands disposed.

(SHUBHA MEHTA),J

(PANKAJ BHANDARI),J

AMIT/45