

Court No. - 20

Case :- FIRST APPEAL FROM ORDER DEFECTIVE No. - 104 of 2016

Appellant :- Pati Ram And Another

Respondent :- Union Of India Thru General Manager Northern Railway And Anr.

Counsel for Appellant :- Alok Kumar, Mahesh Kumar Mishra, Mahesh Kumar Singh

Counsel for Respondent :- Vijay Pratap Singh, Vijay Pratap Singh

Hon'ble Ajay Bhanot, J.

Order in delay condonation application

Heard Shri Ajit Mishra, learned counsel holding brief of Shri Mahesh Kumar Mishra, learned counsel for the appellant and Shri Vijay Pratap Singh, learned Central Government Counsel.

This is an application seeking condonation of delay in filing the instant first appeal from order.

No affidavit in opposition to the delay condonation application has been filed. There is no satisfactory contest to the aforesaid delay.

Cause shown for the delay in filing the first appeal from order as asserted in application for condonation of delay is sufficient.

Delay in filing the first appeal from order is hereby condoned.

The delay condonation application is allowed.

Order in First Appeal From Order

Heard Shri Ajit Mishra, learned counsel holding brief of Shri Mahesh Kumar Mishra, learned counsel for the appellant and Shri Vijay Pratap Singh, learned Central Government Counsel.

The instant appeal arises out of the judgment and award made by the learned Railway Claims Tribunal, Lucknow dated 03.08.2015 in I.A./263/14 (Pati Ram and another Vs. Union of India) by rejecting the claim petition of claimants/appellants and by order dated 02.11.2015 the application under Section 5 of Limitation Act has been declined in Case No. Res/A/03/2015 (Pati Ram and another Vs. Union of India).

The impugned order dated 03.08.2015 records a cryptic finding that the cause for the delay has not been satisfactorily explained. A perusal of the application shows that the appellant has asserted before the learned tribunal that he is a poor person belonging to a rural area and is illiterate. Further on account of death of his wife, his family life was greatly disturbed. These facts were neglected from consideration in the impugned order. The impugned order dated 03.08.2015 is vitiated for non application of mind.

The application for recall has been similarly rejected by a

non speaking order dated 02.11.2015.

In wake of the aforesaid, both impugned orders dated 03.08.2015 and 02.11.2015 are liable to be set aside and are set aside.

The cause shown for the delay by the applicant is sufficient. The delay is condoned. The matter is liable to be decided on merits.

The matter is remitted to the learned tribunal for adjudicating the claim on its merits. The aforesaid claim shall be decided within a period of two months from the date of receipt of a certified copy of this order.

However, to adjust the equities the appellant shall not be entitled to interest for the period of delay.

The first appeal from order is allowed.

Order Date :- 22.8.2024

Dhananjai