

Court No. - 6

Case :- FIRST APPEAL FROM ORDER No. - 174 of 2024

Appellant :- Dilshad Khan

Respondent :- Union Of India Thru. General Manager, North Eastern Railway, Gorakhpur

Counsel for Appellant :- Manish Kumar Srivastava, Chandra Prakash Singh, Saroj Kumari

Counsel for Respondent :- Mahendra Kumar Misra

Hon'ble Rajnish Kumar, J.

1. Heard Sri Manish Kumar Srivastava, learned counsel for the appellant and Sri Mahendra Kumar Mishra, learned counsel for the respondent.

2. This appeal has been filed against the judgment and order dated 19.03.2024 passed in Case No.MA/LKO/34/2022 by the Railway Claims Tribunal, Lucknow Bench, Lucknow, by means of which the application for condonation of delay in filing the claim petition has been dismissed and the case has been consigned to record.

3. Learned counsel for the appellant submits that learned tribunal merely considering the objection of the respondent has passed the impugned order without considering the grounds raised by the appellant in his application for condonation of delay, whereas the claim petition having been filed under the Railway Claims Tribunal Act, a beneficial legislation, should have been considered considering the grounds raised by the appellant. Therefore the impugned order is not sustainable in the eyes of law.

4. Per contra, learned counsel for the respondent submits that the appellant has failed to place on record any material in support of his grounds taken in the application for condonation of delay, therefore, the learned tribunal has rightly and in accordance with law passed the impugned order.

5. Having considered the submissions of learned counsel for the parties, I have perused the records.

6. The claim petition has been filed by the appellant claiming compensation under the Railway Claims Tribunal Act with a delay of about 3 years 7 months and 5 days alongwith application for condonation of delay in filing the claim petition. The Railway Claims Tribunal has power to condone the delay beyond the period of limitation of one year under Sub Section 2 of Section 17 of the Railway Claims Tribunal Act 1987, which provides that an application may be entertained if the applicant

satisfies the claims tribunal that he has sufficient cause for not making the application within such period.

7. The applicant has given reasons for delay in filing the claim petition in the affidavit filed in support of the application for condonation of delay that after accident, the applicant was on complete bed rest till about one year. Thereafter he contacted some counsel practicing in District Kanpur in the month of March 2019 but he could not get the correct advise and address. Thereafter he contacted another counsel in the month of April 2019, who kept the file for preparation of case and for sending it to Lucknow. Thereafter he again contacted to the counsel who informed that the file could not be traced. Thereafter corona pandemic came and after passing of the corona pandemic, he filed claim petition.

8. Objection to the application was filed. After considering the application and the objection, the tribunal passed a cryptic order only recording that the application has been objected by the respondents and sufficient reasons for delay in filing the claim petition has not been shown and held that since the delay is beyond three years and sufficient reason is not adduced for not filing in stipulated time and is barred by limitation and considering the delay in the case directs the petition to be dismissed.

9. The aforesaid order passed by the tribunal indicates that none of the grounds taken by the appellant in his application for condonation of delay have been considered and only recording that the reasons are not sufficient, the application has been dismissed without recording any reason considering the grounds. Even if the tribunal was of the view that the reasons are not sufficient to condone the delay, the reason for arriving at such conclusion should have been recorded. Therefore this Court is of the view that the impugned order has been passed without recording reasons in support of the impugned order, therefore it is not sustainable in the eyes of law.

10. The Hon'ble Supreme Court has held as under in paragraphs 7 to 10 of *Mangat Ram versus State of Haryana*; (2008) 7 SCC 96:-

7. Discussing the position of this Court on passing final orders without recording reasons in support of such orders, this Court stated:

"31. It may be thought that such orders are passed by this Court and therefore there is no reason why the High Courts should not do the same. We would like to point out respectfully that the orders passed by this Court are final and no appeal lies against them. The Supreme Court is the final court in the hierarchy of our courts. Besides, orders without a reasoned

judgment are passed by this Court very rarely, under exceptional circumstances. Orders passed by the High Court are subject to the appellate jurisdiction of this Court under Article 136 of the Constitution and other provisions of the statutes concerned. We thought it necessary to make these observations in order that a practice which is not very desirable and which achieves no useful purpose may not grow out of its present infancy."

8. The principle was reiterated by this Court in *State of Punjab v. Surinder Kumar* [(1992) 1 SCC 489 : 1992 SCC (L&S) 345 : (1992) 19 ATC 345] . Distinguishing the position of this Court and other courts, the Court stated: (SCC pp. 491-92, para 6)

"6. ... On the question of the requirement to assign reasons for an order, a distinction has to be kept in mind between a court whose judgment is not subject to further appeal and other courts. One of the main reasons for disclosing and discussing the grounds in support of a judgment is to enable a higher court to examine the same in case of a challenge. It is, of course, desirable to assign reasons for every order or judgment, but the requirement is not imperative in the case of this Court. It is, therefore, futile to suggest that if this Court has issued an order which apparently seems to be similar to the impugned order, the High Court can also do so."

9. In *Zahira Habibulla H. Sheikh v. State of Gujarat* [(2004) 4 SCC 158 : 2004 SCC (Cri) 999] , the High Court, after hearing criminal appeal, directed its dismissal indicating that "reasons would follow". When the matter reached this Court, the Court disapproved the approach adopted by the High Court observing that it did not see "perceivable reason for the hurry". Referring to *Jagdev Singh Talwandi* [(1984) 1 SCC 596 : 1984 SCC (Cri) 135] and observing that sometimes even this Court makes such order, the Court stated:

"82. It may be thought that such orders are passed by this Court and, therefore, there is no reason why the High Courts should not do the same. We would like to point out that the orders passed by this Court are final and no further appeal lies against them. The Supreme Court is the final court in the hierarchy of our courts. Orders passed by the High Court are subject to the appellate jurisdiction of this Court under Article 136 of the Constitution and other provisions of the statutes concerned. We thought it necessary to make these observations so that a practice which is not a very desirable one and which achieves no useful purpose may not grow out of and beyond its present infancy."

10. In our considered opinion, it would be appropriate and desirable if all courts including the High Courts keep in mind the above principles laid down by this Court and pass final orders only after recording reasons in support of such orders.

11. In view of above, the impugned order dated 19.03.2024 is hereby set aside and the matter is remanded back to the concerned tribunal to consider the application for condonation of delay filed by the appellant afresh in accordance with law and the observations made here-in-above and pass a reasoned and speaking order expeditiously say within a period of two

months from the date of production of certified copy of this order.

12. With the aforesaid, the appeal is allowed. No order as to costs.

Order Date :- 3.10.2024
Akanksha Sri.