

08.08.2025

Jaydev
Sl. No. 3
Ct. No. 12

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

MAT 229 of 2025
With
I.A. No.: CAN 1 of 2025
I.A No.: CAN 2 of 2025

M/s Birla Buildings Ltd.
-Vs.-
The State of West Bengal & Ors.

Mr. Nayan Rakshit,
Ms. Ashmita Chatterjee,
Mr. Nilay Rakshit.

...for the Appellant

Mr. Balaram Patra,
Mr. Suvodip Bhattacharjee

...for the Respondent No.2.

Mr. Suman Sengupta, Sr. Govt. Adv.
Ms. Amrity Panja Moulic,
Mr. Sanatan Panja

...for the State.

1. Heard Mr. Nayan Rakshit, learned advocate for the appellant. Also heard Mr. Balaram Patra, learned advocate for the respondent.

2. The appellant is a company incorporated under the Companies Act 1956. The management dismissed an employer namely respondent No.3 with effect from 11.7.2011 and accordingly the respondent No.3 raised an industrial dispute. Conciliation proceeding were initiated however as the same failed, the Government sent order of reference under Section 10 Sub-Section 2a of the Industrial Dispute Act, 1947 before the learned 2nd Industrial Tribunal. In the said proceeding the

respondent No.3/workman raised preliminary issues pertaining to the validity of domestic enquiry relied upon by the management.

3. Thereafter the learned Tribunal after giving opportunities to all the parties passed an order dated 23.4.2019 holding that the domestic enquiry suffers from gross legal defects and the enquiry officer has failed and also commented upon the findings of the enquiry officer to be perverse.

4. Being aggrieved with the order dated 23.4.2019 passed by the learned Industrial Tribunal, the appellant as writ petitioner preferred a writ petition before the learned Single Judge which was registered as WPA No.8531 of 2021. The said writ petition was dismissed by the writ court and therefore the appellant again preferred an appeal before the Hon'ble Division Bench which was registered as MAT 526 of 2021. The said appeal was disposed of on 05.01.2022 whereby the order passed by the writ court as well as the order passed by the learned Industrial Tribunal dated 23.04.2019 were set aside and the matter was remanded back to the learned Industrial Tribunal to decide the preliminary issue regarding the validity of the domestic enquiry strictly in accordance with the parameters laid down by the Hon'ble Supreme Court while deciding the preliminary issue.

5. The learned Industrial Tribunal reheard the matter and by an order dated 20.04.2022 came to the conclusion that the domestic enquiry conducted by the enquiry officer was not legal, proper and fair and the opposite party company was directed to adduce evidence to prove the charges on merit.

6. Being further aggrieved by the order dated 20.4.2022 passed by the learned Industrial Tribunal the appellants filed an application on 10.08.2022 before the learned Tribunal to review and recall the order dated 20.04.2022. However, the said application for review and recall filed by the appellant before the learned Industrial Tribunal was rejected along with cost of Rs.10,000/- to be paid to the workman.

7. The appellant therefore again approached the learned Single Judge of this court by filing WPA No.13147 of 2024 which was disposed of by an order dated 7th August, 2024 and the same is extracted herein below:-

“It is fairly submitted on behalf of the parties that no final order has yet been passed in Case No.VIII-10 of 2013 (M/s Birla Building Ltd. Vs. Mr. Anil Singh). Both parties submit that all issues are open and yet to be decided by the Tribunal.

It appears from the impugned order that the company had been directed to adduce evidence to prove the charges on merit.

In such view of the matter any interference at this stage of the proceeding would only delay and procrastinate the main proceeding, being Case No.VIII-10 of 2013 (M/s Birla Building Ltd. Vs. Mr. Anil Singh).

In view of the above, WPA No. 13147 of 2024 is disposed of by directing both parties to raise all issues, both on maintainability and on 2 merit in accordance with law, before the Learned 2nd Industrial Tribunal.

It is made clear that there has been no adjudication on the merits of the case and

all the issues are left open for the Tribunal to decide in accordance with law upon hearing both parties.”

8. In this backdrop, the appellant has filed MAT 229 of 2025 challenging the order dated 7th August, 2024. However, the said appeal is being accompanied by CAN No.2 of 2025 which is an application under Section 5 of the Limitation Act, 1963 for condonation of 180 days delay in filing the above preferred appeal.

9. On 28.07.2025 while we were considering the application for condonation of delay, we were not satisfied with the explanation given in the application and accordingly in the interest of justice we directed the appellant to file a supplementary affidavit explaining the delay in filing the connected appeal from 20th September, 2024 to 7th February, 2025 and fixed 8th of August, 2025 as the returnable date.

10. Today when the matter is taken up, learned counsel for the appellant has filed a supplementary affidavit on behalf of the appellant which is taken on record.

11. In the said supplementary affidavit the appellant has tried to explain the delay of 180 days in filing the connected appeal by averring that the learned counsel for the appellant lost her mother on 13.09.2024 and during the mourning period also to conduct the last rites of her late mother she was unable to attend the court for more than one month.

12. The second ground is that as the Puja vacation commenced from 9th October, 2024 and continued till 2nd November, 2024 the Chief Executive Officer could take advice from the learned counsel for filing the appeal only after

re-opening of the court. Thirdly, as one of the directors of the company who was dealing with the legal matters was away in connection with his daughter's wedding which culminated on 02.02.2025, the final approval was conveyed to the advocate on 07.02.2025 thereafter the appeal was filed on 14.02.2025.

13. Learned counsel for the appellant has relied in the case of **Bhivchandra Shankar More vs. Balu Gangaram More & Ors.** reported in **2019 (5) SCC 481** to impress upon us that sufficient cause should be given a liberal construction so as to advance sustainable justice when there is no inaction, no negligence nor want of bona fide could be imputable to the appellant. He also submits that the rules of limitation are not meant to destroy the rights of parties and as the appellants has shown sufficient cause in the supplementary affidavit filed in the present application, the delay of 190 days in filing the appeal should be condoned.

14. The learned counsel appearing on behalf of the respondent on the other hand submits that apart from explaining with regard to the death of the mother of the learned counsel of the appellant in the month of 13.09.2024 and the Puja vacation from 9th October, 2024 till 2nd November, 2024 no further plausible explanation has been given in the present application as well as in the supplementary affidavit and therefore as there is no sufficient cause shown for the delay the present application should be dismissed.

15. We have heard the learned counsels appearing on behalf of the parties.

16. The law of limitation is founded on public policy. It is for the general welfare that a period of limitation be put to litigation. The object is to put an end to every legal remedy and to have a fixed period of life for every litigation as it is futile to keep any litigation or dispute pending indefinitely.

17. It is elementary and well understood that courts should not adopt an injustice oriented approach in dealing with the applications for condonation of delay in filing appeals and should rather follow a pragmatic approach to advance substantial justice.

18. An appeal is expected to be filed within the stipulated period prescribed under the law. Belated appeals can only be condoned when sufficient reason is shown before the court for the delay. The appellant must therefore explain the delay of each day in filing the connected appeal. We are conscious of the fact that the court should not be pedantic in their approach while condoning the delay, and explanation of each day's delay should not be taken literally. However, there must be a reasonable explanation for the delay. In the present case the delay has not been explained to the satisfaction of the court and the only reason given by the appellant is with regard to the unfortunate expiry of the appellant's counsel mother and that the Puja vacation had commenced from 9th October, 2024 till 2nd November, 2024. The appellant has also further tried to explain the delay on the ground that one of the directors of the company who was dealing with legal matters was away in connection with his daughter's wedding which culminated on 02.02.2025. We

do not find this to be sufficient reasons for the condonation of delay of 190 days in filing the connected appeal.

19. In the facts and circumstances of the case discussed hereinabove there is no merit in the present application and accordingly the prayer for condonation of 190 days in filing the appeal is rejected.

20. CAN 2 of 2025 stand dismissed. There is no order as to cost.

21. All parties shall act on the server copy duly downloaded from the official website of this court.

22. Urgent certified website copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)