

MAT 2112 of 2024
with
IA CAN 1 of 2024
with
IA CAN 2 of 2024

[Constable/Driver Uttam Kumar Das (89655036)
Vs. Union of India & Ors.]

Mr. Ziaul Islam

.... For the appellant

Mr. Anirban Mitra

Ms. Garima Raijada

.... For the respondents

The present appeal has been preferred challenging the orders dated 11th December, 2000 and 12th December, 2000 passed by the learned single Judge in the writ petition being WPA 15801 (W) of 2000. In connection with the present appeal, an application under Section 5 of the Limitation Act being IA No. CAN 1 of 2024 has been preferred praying for condonation of a delay of 7999 days, as reported by the Additional Stamp Reporter.

Records reveal that by an order dated 4th March, 2025 a coordinate Bench of this Court directed the parties to exchange their affidavits in the application for condonation of delay. Pursuant to such direction, the affidavits have been filed.

Mr. Islam, learned advocate appearing for the writ petitioner/appellant herein submits that the delay which has occurred is not totally attributable to the appellant. He was not aware of the intricacies of law and did not get proper advice from any learned advocate. He hails from a very poor family and he has suffered an order of

termination from service which is the highest punishment in service jurisprudence and the same affects his right to livelihood. In the said conspectus, the delay may be condoned so that the appeal can be heard on merits moreso when the records would reveal that the appellant's claim is a meritorious one inasmuch as the order impugned in the appeal has been passed without specifically dealing with the grounds challenging the order impugned in the writ petition.

He further submits that after the dismissal of the writ petition, the subsequent representations submitted by the appellant towards reconsideration of his claim were not considered by the respondents and in such circumstances, the dismissal of the application for condonation delay would render the appellant remediless.

Mr. Mitra, learned advocate appearing for the respondents vehemently opposes the appellant's prayer and submits that no explanation whatsoever has been furnished by the appellant as regards the delay of about 23 years in preferring the appeal. The application is just an attempt on the part of the appellant to reinvigorate his claim which has already attained finality. Reliance has been placed upon a judgment delivered by the Hon'ble Supreme Court in the case of *Pathapati Subba Reddy (died) by L.Rs. & Ors. Vs. The Special Deputy Collector (LA)* reported in 2024 SCC OnLine SC 513.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The undisputed facts are that a writ petition being WPA 15801 (W) of 2000 was preferred by the appellant challenging *inter alia* an order dated 13th August, 2000 passed by the Commandant, 11th Battalion (in short, Bn), Border Security Force (in short, BSF) by which the appellant was awarded a punishment '*to suffer rigorous imprisonment of 12 months in civil prison and dismissal from service*'. The said writ petition was dismissed by the orders dated 11th December, 2000 and 12th December, 2000. Thereafter, on 6th August, 2001, the appellant filed a statutory petition which was considered and rejected by an order dated 12th July, 2002. Subsequent thereto, the appellant submitted a further representation for consideration on 7th July, 2009 which was dismissed by an order dated 20th October, 2009. In the midst thereof, the appellant also filed a writ petition being WPA 17182 of 2009. However, the said writ petition was dismissed for default on 6th September, 2023 and no steps have been taken by the appellant for restoration of the said writ petition.

In the application being IA No. CAN 1 of 2024 we do not find any explanation as to why the appellant did not immediately prefer the appeal challenging the orders dated 11th December, 2000 and 12th December, 2000. The period from the said dates till the date of filing of the present appeal remains unexplained. It further appears that after rejection of his statutory petition on 12th July, 2002, he waited for about seven years to prefer a writ

petition being WPA 17182 of 2009. Even after dismissal of the said writ petition on 6th September, 2023 no steps have been taken by the appellant for restoration of the same.

It is well settled that the expression '*sufficient cause*' within the meaning of section 5 of the Limitation Act should receive a liberal construction when there is no negligence or inaction or want of *bona fide* imputable to the parties. However, in the present case, no acceptable explanation has been furnished by the appellant as regards the delay in preferring the appeal.

In the said conspectus and as the delay in filing the appeal is totally attributable to the appellant, we are not inclined to exercise discretion in his favour and to condone the delay.

In view thereof, the application for condonation of delay being IA No. CAN 1 of 2024 is dismissed. Consequently, the appeal being MAT 2112 of 2024 and the connected application for stay being IA No. CAN 2 of 2024 are also dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)