

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 13126 OF 2024**

**IN**

**FIRST APPEAL (St.) NO. 24429 OF 2024**

Union of India through the General Manager,  
Central Railway, CST

...Applicant

**Versus**

Chandrakant Baburao Boke and Another

...Respondents

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*Mr. R. P. Ojha, Mr. Ankit Ojha for the Applicant.*  
*Mr. Abhijit Kadam for Respondent No. 1.*  
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**Coram : Sharmila U. Deshmukh, J.**

**Date : 7<sup>th</sup> April, 2025.**

**P. C. :**

1. Interim Application has been preferred seeking condonation of delay of 251 days caused in preferring the Appeal. Pursuant to the order dated 27<sup>th</sup> November, 2024, Affidavit-in-Rejoinder has been filed by the Applicant setting out in detail the explanation for delay of 251 days.
2. Learned counsel appearing for Applicant submits that the certified copy of the impugned order and Award was received on 24<sup>th</sup> November, 2023, which was then forwarded to the Law Officer on 7<sup>th</sup> December, 2023 to give his opinion as regards the filing of Appeal. He

would further submit that the Law Officer stated that he is agreeable with the opinion of the Railway's Advocate that the Appeal be filed only against the future interest granted by the District Court. He would further submit that the Chief Law Assistant who was entrusted with the matter was hospitalized on 23<sup>rd</sup> February, 2024 and was discharged on 14<sup>th</sup> March, 2024. He submits that thereafter, the present Advocate was nominated to file the Appeal on 2<sup>nd</sup> May, 2024 during vacations and after reopening of Court, the entire file was forwarded to him. He would further submit that the Chief Law Assistant was again hospitalized and was discharged on 5<sup>th</sup> July, 2024. He would submit that as the Court fees was remitted only on 19<sup>th</sup> July, 2024, the Appeal came to be filed on 24<sup>th</sup> July, 2024 and therefore, sufficient explanation has been given for delay of 251 days.

**3.** *Per contra*, learned counsel appearing for Respondent would oppose the Application and would submit that merely because the concerned Law Assistant was hospitalized, it cannot constitute explanation for delay. He would submit that the present Applicant is Union of India through the General Manager, Central Railway which would be having legal staff who could have handled the matter. He submits that the substantial explanation for delay is hospitalization of the Chief Law Assistant which cannot be accepted and therefore, delay of 251 days cannot be condoned.

4. I have considered the submissions and perused the record.
5. The Applicant is Union of India through the General Manager, Central Railway and before the Appeal could be filed, it was necessary to obtain legal opinion. It is well-known that no single Officer can take decision of challenging the Court order before a higher forum unless the same is sanctioned/approved by the higher authorities.
6. In the present case, the Chief Law Assistant, after agreeing with the opinion of the Advocate of Railway Authorities, granted permission to challenge the Appeal. Thereafter, the Chief Law Assistant who was in charge of the said matter was hospitalized between 23<sup>rd</sup> February, 2024 to 14<sup>th</sup> March, 2024 and thereafter, again on 27<sup>th</sup> June, 2024 and was discharged on 5<sup>th</sup> July, 2024. The medical reports are produced on record to substantiate the said submission and thus, the said explanation cannot be doubted. As it is Chief Law Assistant who would be approving the draft for the purpose of filing the Appeal, his absence has led to the delay.
7. From the perusal of explanation, it is clear that there is no negligence or inaction on the part of Applicant in filing the Appeal and delay is mostly attributed to the usual bureaucratic delays.
8. In light of the above, delay stands condoned.
9. Interim Application is allowed.

**[Sharmila U. Deshmukh, J.]**