

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13130 OF 2024

IN

FIRST APPEAL (St.) NO. 24813 OF 2024

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

...Applicant/Appellant

Versus

Bharati Ganpat Bendre and Another

...Respondents

Mr. R. P. Ojha, Mr. Ankit Ojha for the Applicant.
Mr. Abhijit Kadam for Respondent No. 1.

Coram : Sharmila U. Deshmukh, J.

Date : 7th April, 2025.

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 252 days caused in preferring the Appeal. Pursuant to the order dated 27th November, 2024, Affidavit-in-Rejoinder has been filed by the Applicant setting out in detail the explanation for delay of 252 days.
2. Learned counsel appearing for Applicant submits that the certified copy of the impugned order and Award was received on 24th November, 2023, which was then forwarded to the Law Officer on 7th 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 23rd February, 2024 and was discharged on 14th March, 2024. He submits that thereafter, the present Advocate was nominated to file the Appeal on 2nd 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 5th July, 2024. He would submit that as the Court fees was remitted only on 19th July, 2024, the Appeal came to be filed on 24th July, 2024 and therefore, sufficient explanation has been given for delay of 252 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 252 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 23rd February, 2024 to 14th March, 2024 and thereafter, again on 27th June, 2024 and was discharged on 5th 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.]