

UNION OF INDIA v. PUNJAB STATE POWER CORPORATION LTD. & 2 ORS.

UNION OF INDIA

...Appellant

PUNJAB STATE POWER CORPORATION LTD. & 2 ORS.

...Respondent

Case No: REVISION PETITION NO. 1001 OF 2018

Date of Judgement: 01 November 2023

Judges:

DR.INDER JIT SINGH

PRESIDING MEMBER

For Appellant: MR. SIDDHARTHA SINHA, ADVOCATE

For Respondent: MS. ZEHRAN KHAN, MS. A. SHANKAR, ADVOCATES

Facts:

The Union of India has filed a Revision Petition (RP) with 340 days delay against the order of the State Commission, Punjab dated 21.12.2016 in Appeal No. 785/2013. An application for condonation of delay has been filed stating reasons like order not communicated properly, concerned official retired, electrical department officials remain busy, subsequent official pursued matter and obtained copy of order on 09.03.2018. Registry has calculated delay from date of receiving certified copy i.e. 27.01.2017. Petitioner contends that there is no delay and the RP is within time.

Court's Opinions:

Court refers to Basawaraj case that 'sufficient cause' means a

reasonable cause where party acted diligently and no negligence can be imputed. Strict proof is required. Refers to Arjun Singh case that explains difference between 'good cause' and 'sufficient cause'. Law of limitation based on public policy to prevent stale claims. Statutory limitation cannot be extended on equitable grounds. Where delay is beyond limitation, applicant must explain adequate reason amounting to 'sufficient cause'. Negligence, lack of bona fide etc will not justify condonation. Court refers to Esha Bhattacharjee case that lays down principles – terms like 'sufficient cause' are elastic, negligence by counsel/litigant relevant, bona fides important to be considered, some delay may deserve liberal view unlike longer delays. No fixed formulas. Government may be given some latitude. Refers to Living Media case that government agencies are bound by limitation, usual excuses like bureaucratic delays cannot justify huge delays, technology makes delay unacceptable. Refers to Sridevi Datla case that emphasizes a balance has to be made based on facts of each case.

Arguments by Parties:

Petitioner:

Did not receive certified copy of order. Obtained it later on 09.03.2018. Hence RP is within time. Electrical department officials remain very busy. Concerned official retired. Due diligence by subsequent official who pursued the matter.

Respondents:

Opposed the condonation application and petitioned for dismissal of petition on ground of delay.

Court's Decision:

The court analyzed the facts and circumstances and held that the Petitioner has failed to make out sufficient cause for the delay. Hence delay cannot be condoned and petition dismissed as barred by limitation.

Sections:

Section 21(b) of Consumer Protection Act – Revision against order of State Commission to National Commission within 90 days.

Cases Referred/Cited:

Basawaraj and Another v Special Land Acquisition Officer (2013) 14 SCC 81

Arjun Singh v Mohindra Kumar AIR 1964 SC 993

Improvement Trust v Ujagar Singh

Esha Bhattacharjee v Raghunathpur Nafar Academy (2013) 12 SCC 649

Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr (2012) 3 SCC 563

Sridevi Datla Vs. Union of India & Ors (2021) 5 SCC 321

Laws Referred:

Consumer Protection Act and Rules/Regulations – requirement of filing revision petition within 90 days.

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Court

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Full Text of Judgment:

1. Heard Counsel for Petitioner and Counsel for Respondent No.1 and 2 on Condonation of Delay Application. As per Registry, RP has been filed with a delay of 340 days. However, the Petitioner claims that there is no delay although he filed an Application for Condonation of Delay, if any. The Petitioner contends that they received the copy of the impugned Order dated 21.12.2016 on 09.03.2018 only and hence, their RP is filed within 30 days. We have carefully gone through the copy of the impugned Order of the State Commission which bears the stamp and requisite details of supply of copies. This clearly shows that the free copy was issued on 27.01.2017. Hence, the Registry has correctly taken the date of Order received as 27.01.2017 while calculating the delay of 340 days in filing the RP.

2. The present Revision Petition has been filed by the Petitioner against the order dated 21.12.2016 of the State Commission Punjab in FA No. 785 of 2013. The Revision Petition has been filed with a delay of 340 days. An IA No. 6438 of 2018 dated 02.04.2018 has been filed seeking condonation of delay. In the said IA, following reason for delay / grounds for condonation have been mentioned :

"That the appeal was heard on 21.12.2016 and the order was never communicated to the Petitioner as per rule. However, Mr. Naveen Jalota, the then dealing Chief Law Assistant, who was looking after this matter also got retired on 30.04.2017 and the concerned file was in his custody during the period. Since the Petitioner's Electrical Department of Diesel Loco Modernization Works (A Production Unit of Indian Railway) situated at Patiala is a service department of paramount importance, therefore, a lot of tender work along with other routine work of very important nature often taken place in Electrical Department as such the officials remain over busy and could not pursue the matter to know the status of the order. However, when the concerned file came into the notice of the subsequent new incumbent on the Post of Chief Law Assistant, he immediately sent the official concerned to the Hon'ble State Commission to know the outcome of the case, where he came to know that the order was already passed in the matter, he applied for free copy of the said order, but he was informed that free copy was prepared and sent to him through post on 27.01.2017. Since, the Petitioner did not receive the said order hence applied for duplicate copy of the same, which was supplied to him on 09.03.2018. Thus, the revision was due to be filed on 07.06.2018 from the date of issue of the order and hence it is being filed today on 02.04.2018 i.e. within time."

3. In order to condone the delay of 340 days, the Petitioner has to satisfy this Commission that there was sufficient cause for preferring the Revision Petition after the stipulated limitation period. The term 'sufficient cause' has been explained by the Hon'ble Supreme Court in Basawaraj and Another. Vs. Special Land Acquisition Officer (2013) 14 SCC81. Hon'ble Supreme Court in this case observed as follows :

9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", in as much as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means

that the party should not have acted in a negligent manner or there was want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.

10. In *Arjun Singh v. Mohindra Kumar* [AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, in action or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no strait jacket formula is possible.

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while

interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale..... An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches.

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In a case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tant amounts to showing utter disregard to the legislature."

4. Hon'ble Supreme Court in Esha Bhattcharjee v. Raghunathpur Nafar Academy[(2013) 12 SCC 649], while dealing with the issue of condonation of delay, after taking note of various authorities/earlier judgments of the Hon'ble Supreme Court, culled out broad principles for considering the condonation of delay applications and also added few more guidelines taking note of the present day scenario. Relevant paras of these are reproduced below:-

"15. From the aforesaid authorities the principles that can broadly be culled out are:

x x x x

ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact- situation.

x x x x

iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

v) Lack of bona fides imputable to a party seeking condonation of delay is as insignificant and relevant fact.

x x x x

vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted where as to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual.

xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

16. To the aforesaid principles we may add some more guidelines taking

note of the present day scenario. They are:

x x x x

c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters.”

5. In Office of the Chief Post Master General & Ors. vs. Living Media India Ltd. & Anr.

[(2012) 3 SCC 563], Hon’ble Supreme Court while dealing with the issue of condoning the delay on the part of office of the Chief Post Master General, observed :

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was

bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.”

6. In *Sridevi Datla vs. Union of India & Ors.* [(2021) 5 SCC 321], Hon’ble Supreme Court observed :

25. Much later, in *Esha Bhattacharjee v. Raghunathpur Nafar Academy* this court referred to a large number of previous judgments, and observed that adoption of a strict standard of proof sometimes fails to protect public justice and it may result in public mischief. Other decisions have highlighted that there cannot be a universal formula to judge whether sufficient cause has, or has not been shown and the exercise is necessarily fact specific; in *Improvement Trust v. Ujagar Singh*, the court held:

“16. While considering [an] application for condonation of delay no straitjacket formula is prescribed to come to the conclusion if sufficient and good grounds have been made out or not.”

26. The court also emphasized that each case has to be balanced on the basis of its facts and the surrounding circumstances in which the parties act and behave.”

7. We have carefully gone through the reasons for delay / grounds for condonation mentioned in IA No. 6438 of 2018 as well as those adduced during the hearing. Under relevant provisions of Consumer Protection Act / Rules / Regulations, Revision Petition has to be filed within 90 days from the date of receipt of certified copy of the order. The reasons for delay/ grounds for condonation are not found convincing.

8. In view of the foregoing, we find that sufficient and good grounds

have not been made out by the Petitioner in the instant case for condonation of delay of 340 days. Accordingly, IA No. 6438 of 2018 is dismissed. Consequently, Revision Petition is also dismissed being barred by limitation.