

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

Tr.A.No. 415/87

(24)

Shri Y.R.Nande ... Applicant
v/s.

Union of India and others. ... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar
Hon'ble Member (A) Shri M.Y.Priolkar

TRIBUNAL'S ORDER

Dated: 25.1.1989

The applicant, Y.R.Nande, had filed Civil Suit No. 2216/1982 in the Court of the Civil Judge, Pune on 17.3.1982. It was dismissed by the learned Civil Judge by judgment delivered on 20.2.1984. The decree was signed by the learned Civil Judge on 22.3.1984. The applicant applied for a certified copies of the judgment and decree on 7.4.1984 and received the same on 29.5.1984. On 29.6.1984 he preferred an appeal against the decision of the Civil Judge in District Court, Pune. On finding that there was a delay in preferring the appeal, he filed an application for condonation of delay on 15.9.1984. It was numbered as Misc. Application No. 447/84. As that application was opposed on behalf of the respondents, the applicant filed his affidavit in support of the application on 20.8.1985. But before the application for condonation of delay could be decided, the said application as well as the appeal were required to be transferred to this Tribunal under Section 29 of the Administrative Tribunal Act. The learned District Judge has passed an order to that effect on 27.7.1987.

2. We have heard Mr.D.V.Gangal, learned advocate for the applicant and Mr.R.K.Shetty, learned advocate for the respondents on the point of condonation of delay in filing the appeal.

3. Ordinarily, the applicant should have filed the appeal on or before 20.3.1984 because the period of limitation prescribed for filing an appeal is only 30 days from the date of judgment. However, the applicant has filed the appeal on 29.6.1984. Hence, *prima facie* the appeal was not filed within the prescribed period of limitation.

4. However, the applicant has produced a medical certificate of Dr.A.B.Pachore, M.B.B.S. stating that the applicant was under his treatment since 21.2.1984 upto 6.4.1984, as he was suffering from Bronchitis. The applicant had applied for a certified copies of judgment and decree on 7.4.1984 and he obtained the same on 29.5.1984. The application was filed within one month from that date i.e. on 29.6.1984. The applicant has filed an affidavit in support of his application on 20.8.1985. No counter affidavit was filed on behalf of the respondents.

5. In Tr.A.No. 516/86 and other cases, the Full Bench of this Tribunal has held that the provisions of the Limitation Act apply to suits transferred under Section 29 of the Tribunals Act, 1985. Thus, we feel that Section 5 of the Limitation Act applies to this case. According to that Section, any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfied the court that he had sufficient cause for not preferring the appeal or making the application within the period of limitation. In view of the medical certificate and in view of the fact that the applicant required about one month and 22 days in obtaining the certified copy of the

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the judgment and decree, we find no difficulty in holding that the applicant had sufficient cause for not preferring the appeal within the period of limitation.

6. In view of all these circumstances, we grant the application for condonation of delay, i.e. M.P.No. 447/84 filed by the applicant in the District Court, Pune and condone the delay in preferring the appeal.

7. The appeal is admitted. It is ready for hearing. However, in view of the other work and in view of the decision in P.K.Sharma's case, we keep this case for directions on 23.2.1989 before the Tribunal.

(M.B.Mujumdar)
Member (J)

(M.Y.Priolkar)
Member (A)