

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**M.A. No.100/2658/2016 In
O.A No.100/1766/2013**

New Delhi this the 19th day of December, 2016

**Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

Banarasi Dass ...Applicant

(Argued by:Shri G.D. Bhandari, Advocate)

Versus

B.S.N.L. & OthersRespondents

(By Advocate:None)

ORDER (ORAL)

Justice M.S. Sullar, Member (J)

The crux of the facts and material, which are essential to decide the instant Miscellaneous Application (MA) for restoration of the case, and emanating from the record, is that, since nobody appeared on behalf of the applicant on 29.07.2016, so the ***Original Application*** (OA) bearing ***No.1766/2013***, was dismissed in default, by this Tribunal.

2. Now the applicant has preferred the instant MA, for its restoration, mainly on the ground that on the relevant day, counsel for the applicant was stuck in traffic jam on account of heavy rain in Gurgaon, so neither he could inform Shri S.P. Sethi, Advocate, to request for adjournment nor he could appear in the court, when the case was called out. It was alleged that applicant, who is a retired employee, with frail health, could not be present in the court as he had to come from Ghaziabad on a rainy day. The absence of the applicant

was stated to be bonafide, unintentional and beyond his control. That being so, the applicant prayed for restoration of the case. The contents of the application are supported by affidavits of the applicant and his counsel, Shri G.D. Bhandari, Sr. Advocate.

3. Although notice was issued, but neither anybody appeared nor filed reply to the MA on behalf of the respondents.

4. Otherwise also, taking into consideration, the grounds of non-appearance of the counsel, projected in the application, we are of the considered opinion, that there was sufficient cause for non-appearance of the applicant or his counsel on the relevant date. So the instant MA deserves to be accepted, particularly when the grounds are supported by the affidavits of Shri G.D. Bhandari, Sr. Advocate and the applicant. Moreover, it is now well settled principle of law that the *lis* between the parties should be decided on merits, instead of dismissing the same on technical grounds.

5. In the light of the aforesaid reasons, the MA is allowed, particularly when there is no opposition of the same. The OA is ordered to be restored to its original number.

**(P.K. BASU)
MEMBER (A)**

**(JUSTICE M.S. SULLAR)
MEMBER (J)
19.12.2016**

Rakesh