

HIGH COURT OF SIKKIM
Record of Proceedings through Video Conferencing

WA No. 04/2021

EXECUTIVE ENGINEER,
CENTRAL WATER COMMISSION

APPELLANT (S)

VERSUS

MAYA DEVI DARJEE

RESPONDENT (S)

For Appellant : Ms. Sangita Pradhan, Asst. Solicitor General.

For Respondent : Mr. Zangpo Sherpa, Advocate.

Date: 24/08/2021

CORAM :

HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, CJ.
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, J.

...

PER J.K. MAHESHWARI, CJ

Arising out of Order dated 12.07.2019 passed in WP (C) No.09/2019 by the learned Single Judge, this Appeal has been filed on 30.07.2021 by a delay of 748 days. It is not in dispute that the period of limitation to file the Writ Appeal is 30 days and there is no in dispute that the period of delay is 748 days.

It is a known fact that from 15.03.2020 till 15.03.2021, the delay as occurred in filing of the Writ Appeal, the same has been deem to be condoned as per the Order of Hon'ble the Supreme Court in the case of ***In Re: Cognizance For Extension of Limitation in Miscellaneous Application No. 665/2021 in SMW(C) No.3/2020*** decided on **27.04.2021**, in which the Apex Court held as thus:

"6.We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

7. It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Action, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, out limits (within which the court or tribunal can condone delay) and termination of proceedings."

However, from the date of the judgment, on expiry of 30 days period of limitation, i.e. August, 2019, the delay is required to be explained till 15.03.2020. Thereafter, in view of the Hon'ble Supreme Court's Order, it is not required to be explained.

We have perused the application seeking condonation filed by the appellant. On perusal it indicates that in furtherance to the Order passed by learned Single Judge and the Award of the Tribunal dated 30.06.2016, payment of 7,40,018/- was made on 21.08.2020. It is said that on receiving the notice for non-compliance of the Order of payment of the Award as directed by the learned Single Judge, the contempt has been preferred claiming exaggerated amount of interest; therefore, this Writ Appeal has been preferred now belatedly after seeking approval from the Law Department.

In our considered opinion, without giving day to day explanation from August, 2019 till 15.03.2020 i.e. the date of Covid pandemic situation started, sufficient ground to condone the delay has not been made. If demand of interest is contrary to the direction of the Court, the appellant may satisfy the learned Single Judge in the contempt proceeding.

In view of the above, in our considered opinion, the appellant has miserably failed to explain the delay with bona fides to seek condonation.

In view of the above, this Writ Appeal stands dismissed as barred by limitation.

Judge**Chief Justice**