



2026:AHC-LKO:21696

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

FIRST APPEAL FROM ORDER DEFECTIVE No. - 52 of 2024

State Of U.P. Thru. Executive Engineer,
Mechanical Division, P.W.D., Lucknow

.....Appellant(s)

Versus

Surya Pal @ Suraj Pal Yadav And Others

.....Respondent(s)

Counsel for Appellant(s) : C.S.C.

Counsel for Respondent(s) : Ajmal Khan, Deepak Kumar Agarwal,
Rajesh Kumar, Rakesh Kumar Sharma

Court No. - 20

HON'BLE PRASHANT KUMAR, J.

C.M. Application No. 1 of 2024

1. This is an application for condonation of delay in filing the instant appeal.
2. The instant belated first appeal from order under section 173 of Motor Vehicle Act has been preferred against the judgment and award dated 10.08.2021 passed by the Motor Accidents Claims Tribunal (South), Lucknow in M.A.C.P. No.12 of 2015 (*Surya Pal @ Suraj Pal Yadav and another versus State of U.P. and another*) and also order dated 03.05.2023 passed in Misc. Case No.204 C of 2022 in *P.W.D. versus Surya Pal and Ors.*
3. The office has reported a delay of 689 days in filing the instant appeal.
4. The reasons given in the affidavit filed in support of delay condonation application for delay are as follows -

"3. That while award was passed there were continued pandemic covid 19 and due to continued situations of pandemic counsel no information could be received and hence appellants were not aware of proceedings before the tribunal and also about the Award passed by the Tribunal. The appellants came to know about the award only on 10.08.2022 when demand for recovery of amount against award was received in the office from the Tehsildar Lucknow.

4. That immediately on coming to know about the award, appellant contacted counsel and knowing about the award, an application under Order 9 Rules 13 C.P.C. read with section 151 C.P.C. was filed

explaining all the facts and circumstances and reasons for non appearance of counsel during proceedings/trial in MACP. But learned Tribunal rejected Application vide order dated-03.05.2023.

5. That immediately after receiving copy of order dated-03.05.2023 on 27.05.2023 vide letter dated 27.07.2023 matter was referred to the departmental Law officer for opinion in the matter who vide letter dated 02.08.2023 opined to refer the matter for opinion to learned Chief Standing Counsel and in view of which vide letter dated- 11.08.2023 matter was referred to the learned Chief Standing Counsel for opinion in the matter which was provided on 28.08.2023. Thereafter matter was referred to the administrative department of the Government on 08.09.2023 and then to the Law Department and then vide order dated-18.01.2024 contest permission to file appeal was granted / issued. And in view of order dated 18.01.2024, again matter was referred to the learned Chief Standing Counsel for filing Appeal vide letter dated 27.01.2024 and then learned Chief Standing Counsel allotted the matter to the Standing Counsel on 03.01.2024 for preparation of F.A.F.O.

6. That after receiving file, learned standing counsel studied the matter and called for further required information / documents in pursuant to which required information could be provided on 01.02.2024 and then on 06.03.2024 after letter dated 04.03.2024 and thereafter he further studied the matter and dictated F.A.F.O. on 15.03.2024 which could be finalized on 17.03.2024.

7. That F.A.F.O alongwith application for Interim Relief and application for condonation of delay, could be dictated and prepared on 17.03.2024. Hence F.A.F.O alongwith this application is being filed for kind consideration of Hon'ble court without further delay."

5. Learned counsel for the appellant submits that there is a delay in filing the instant appeal and the reasons for delay have been well explained in the affidavit filed in support of the application for condonation of delay.

6. He further submits that the delay caused is not deliberate, but because of the bureaucratic set up at the end of the appellants. Hence, the delay so occasioned may be condoned. He submits that there is the impersonal bureaucratic set up involved being the State department and thus the State should not be put on the same footing as an individual.

7. Heard learned counsel for the parties and perused the record.

8. A bare perusal of the affidavit filed in support of the application for condonation of delay in filing appeal shows that an effort has been made by the appellants to justify the delay, however, rather than furnishing a satisfactory explanation, it shows merely an excuse.

9. Before proceeding further, Section 5 of the Limitation Act is being reproduced herein-under :-

"5. Extension of prescribed period in certain cases.— 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 satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

10. A plain reading of the Section 5 of the Limitation Act clearly shows that an appeal may be admitted after the prescribed period, if the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within such prescribed time. The burden to prove sufficient cause lies on the appellant, who is seeking condonation of delay and he has to prove sufficient cause that the reasons for not approaching the court are real, bonafide and free of negligence.

11. The Hon'ble Supreme Court in the matter of ***Lanka Venkateswariu v State of A.P. reported in MANU/SC/0153/2011*** deprecated the High Court in condoning the delay in filing of the appeal therein, that was occasioned not by any unavoidable circumstance, but by the sheer Inefficiency and ineptitude of the Government Pleaders concerned, merely because the party seeking condonation happened to be the State.

12. Further, the Hon'ble Supreme Court in the matter of ***Postmaster General and others vs. Living Media India Limited and another reported in (2012) 3 SCC 563*** has held that the State cannot claim that they have a separate period of limitation and in the absence of plausible and acceptable explanation, delay cannot be condoned in the mechanical manner just because the Government or its instrumentality is a party before the Court. The Hon'ble Supreme Court further went to hold that the department cannot take advantage of earlier decisions and claim on account of impersonal machinery and inherited bureaucratic methodology or making several notes cannot be accepted in view of the Modern Technologies being available. The law of limitation bounds everybody

equally including the government.

13. A similar view was iterated by the Hon'ble Supreme Court in ***Government of Maharashtra (Water Resources Department) represented by Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd reported in (2021) 6 SCC 460*** wherein the Hon'ble Supreme Court placing reliance on ***Postmaster General (supra)*** held that a different yardstick for condonation of delay cannot be laid down merely because the Government is involved. The relevant observations read as under: -

“59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in *Postmaster General v. Living Media (India) Ltd.*”

(Emphasis added)

14. The Hon'ble Supreme Court in the matter of ***State of Odisha and ors. vs. Sunanda Mahakuda reported in (2021) 11 SCC 560*** has held that the leeway which was earlier enjoyed by the State and its instrumentalities on account of bureaucratic inefficiencies in matters of condonation of delay is no longer available in view of the technological advancement and the shift in jurisprudence as elucidated in ***Postmaster General (supra)***.

15. Similarly, in ***State of U.P. v. Sabha Narain, reported in (2022) 9 SCC 266***, the Hon'ble Supreme Court once again deprecated the tendency of State and its Instrumentalities to proceed on the assumption that they may approach the courts at their own convenience and sweet will, disregarding the period of limitation prescribed by statute, as though the Limitation statute does not apply to them. It held that the leeway which was at one point extended to the Government/public authorities on account of innate functional inefficiencies is no more the norm, particularly in the wake of the decision of ***Postmaster General (supra)***.

16. This Court has to see the sufficient 'explanation' for condonation of delay and not the 'excuses' for condoning the delay as held by the Hon'ble Supreme Court in the case of ***Sheo Raj Singh & Others Vs. Union of India and Another; (2023) 10 SCC 531***. The relevant paragraphs 31 and 32 are extracted here-in-below:-

"31. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an "explanation" and an "excuse". An "explanation" is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an "explanation" from an "excuse". Although people tend to see "explanation" and "excuse" as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real.

32. An "excuse" is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an "excuse" would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication."

(emphasis added)

17. The Hon'ble Supreme Court in the matter of **Shivamma (Dead) by Lrs. versus Karnataka Housing Board and others, 2025 SCC Online SC 1969** has held as follows:-

"210. What may be discerned from the aforesaid is that the jurisprudence on condonation of delay under Section 5 of the Limitation Act, particularly where the State or any of its instrumentality is involved, has witnessed a significant shift. From a regime that once accorded preferential indulgence to the State, premised on its bureaucratic complexities and institutional inertia, the law has now evolved to insist upon parity between the government and private litigants. The rationale is that public interest is better served not by excusing governmental inefficiency, but by fostering accountability, diligence, and responsibility in the conduct of public litigation.

* * *

230. To permit condonation of delay to become a matter of course for the Government would have the deleterious effect of institutionalising inefficiency. It would, in substance, incentivise indolence and foster a culture where accountability for delay is eroded. If the State is assured that its lapses will invariably be excused under the rubric of "public interest," there would remain little incentive for its officers to act with vigilance or for its instrumentalities to streamline procedures for timely action. The consequence would not be the advancement of public interest but rather its betrayal.

232. It must, therefore, be underscored that the guiding principle is not the protection of governmental indifference but the promotion of responsible governance. The State is under a higher duty to act in time, for in every matter it litigates, it does so not in its private capacity, but as the trustee of the people's interest. Hence, repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very object of limitation statutes, which are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order.

249. Once the State chooses to litigate, it must shoulder the same responsibilities and abide by the same limitations that bind every litigant. To permit the State to evade the consequences of delay on the ostensible plea that the fault lay with individual officers would amount to diluting the rigour of limitation statutes and undermining their very object. Such an approach would not only privilege the State unjustly over private parties but would also perpetuate a culture of indifference and irresponsibility within the administration.

* * *

261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from

pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law."

(emphasis added)

18. In view of the ratio laid down by the Hon'ble Supreme Court in the catena of judgments, it is clear that the State or its instrumentalities has to be treated at par with any individual, the law of limitation cannot be said to be different for them. While dealing with an application for condonation of delay, the vital test is whether "sufficient cause" has been made out. However, in cases involving bureaucratic inefficiency, the Court must examine whether there is a valid and sufficient explanation for the delay or merely an excuse has been set up. Though the two concepts may sometimes overlap, there is a fine distinction between a genuine explanation and a mere excuse, which the appellant is required to establish satisfactorily.

19. A bare perusal of the affidavit filed in support of the application for condonation of delay shows that the impugned judgement was passed on 10.08.2021 and thereafter an application under Order 9 Rule 13 CPC was filed and the same was rejected on 03.05.2023. It is further averred that the appellant received the certified copy on 27.05.2023 referred the matter to departmental Law officer for the opinion. The matter remained under various tables and thereafter the matter was allotted to the Standing Counsel on 03.01.2024. Further time was taken by learned counsel for the preparation and drafting of the appeal. The appeal was filed on 18.04.2024 and there is a clear delay of 689 days as pointed out by the Registry after deducting the Covid-19 period as per the direction of

Hon'ble Supreme Court.

20. It is evident that the department was well aware of the impugned order dated 10.08.2021 as they have filed an application under Order 9 Rule 13 CPC which was rejected. The appellants have tried to justify the delay but the reasons given in the affidavit seems more like an excuse than a sufficient cause which hold them back from filing the appeal within time.

21. Considering the aforesaid facts and circumstances, this Court finds that a bleak effort has been done to justify the delay, the delay as stated in the affidavit does not show sufficient cause and accordingly, the instant application for condonation of delay is ***rejected***.

22. Consequently, the appeal is also ***dismissed*** on the ground of delay and laches.

(Prashant Kumar,J.)

March 26, 2026

Anupam S/-