



2025:DHC:9780



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 19.09.2025
Pronounced on: 10.11.2025

+ **W.P.(C) 6254/2013**

THE CHIEF ENGINEER CPWD

.....Petitioner

Through: **Ms. Arunima Dwivedi, CGSC**
with Ms. Himanshi Singh, Mr.
Vijay Bhardawaj, EE & Mr.
Anurag Raj, CPWD.

versus

JAY NARAYAN & ORS

.....Respondents

Through: **Mr. N.K. Verma, Adv.**

CORAM:

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

RENU BHATNAGAR, J.

CM APPL. 19971/2024-(Restoration) and CM APPL. 19972/2024-(Delay)

1. The present applications have been moved by the petitioner/applicant under Section 151 of the Code of Civil Procedure, 1908 being CM. APPL No. 19971/2024 seeking restoration of the present writ petition and CM. APPL No. 19972/2024 seeking condonation of delay of 171 days in filing the present restoration application.



2025:DHC:9780



2. The present writ petition was originally instituted by the petitioner department against the *ex-parte* Award dated 12.06.2008 and Order dated 29.04.2013 passed in Industrial Dispute being ID No. 188/1998 by the learned Presiding Officer, Central Government-cum-Labour Court-01, Karkardooma Court, Delhi, (hereinafter referred to as “Labour Court”) whereby, the petitioner management was directed to reinstate the respondent workmen from the date of their termination along with 25% back wages.

3. However, in the absence of the learned counsel for the petitioner, this writ petition was dismissed in default by this Court *vide* Order dated 01.09.2023. Being aggrieved thereof, the present applications have been filed.

4. In the application seeking condonation of delay, it is stated that being unaware of the dismissal of the present writ petition, the petitioner department sent letters dated 15.09.2023 and 09.10.2023 to the previous counsel asking for the latest updates in the matter. Upon gaining knowledge of the dismissal of the writ petition for non-prosecution, the petitioner department wrote a letter to the Legal Advisor of Ministry of Law and Justice on 16.10.2023 seeking a legal opinion and thereafter, a letter dated 30.10.2023 to the Litigation Section for appointment of a new counsel to contest the instant case.

5. It is further stated that it was only after the appointment of a new counsel that the petitioner department requested the said counsel to draft the present applications. Subsequently thereafter, these



2025:DHC:9780



applications were received by the petitioner department on 27.03.2024 for the purpose of vetting and signing, after which, the same were filed.

6. Learned counsel for the petitioner submits that on hearing the present applications, this Court *vide* Order dated 04.04.2024 directed Mr. Sanjeev Kumar, Executive Engineer appearing for the petitioner to file a personal affidavit explaining the delay of 171 days and further explaining as to what action has been taken by the petitioner department against the responsible individual i.e., the advocate or any other concerned dealing officer pertaining to the instant writ petition.

7. She submits that in compliance of the aforesaid Order, an affidavit dated 18.04.2024 was filed on behalf of the petitioner stating therein that there is a delay of 141 days in filing the restoration application, which has been inadvertently mentioned as 171 days in the application seeking condonation of delay. In the said affidavit, it was reiterated that pursuant to the dismissal of the writ petition on 01.09.2023, the petitioner department issued a letter dated 15.09.2023 to the previous counsel asking for the latest update in the writ petition and thereafter on 16.10.2023, to the Legal Advisor, Department of Legal Affairs, Ministry of Law and Justice, Shastri Bhawan, Delhi, seeking engagement of a new counsel in this matter.

8. Learned counsel for the petitioner submits that the delay caused in filing the restoration application was not deliberate as the department wrote letters to the Litigation Section, High Court of Delhi



2025:DHC:9780



on 30.10.2023 and again on 29.02.2024 for appointment of a new counsel to contest the case on behalf of the Department and promptly thereafter, the application for restoration was drafted and filed after a delay of 141 days. Furthermore, she submits that in view of the non-appearance of the previous counsel, the department issued directions dated 18.10.2023 to the concerned officer to be vigilant in future cases pertaining to the interest of Government of India.

9. Learned counsel for the petitioner submits that being unable to find any cogent reasons in the aforementioned affidavit, this Court *vide* its Order dated 03.05.2024, again directed the petitioner department to file a better personal affidavit. She submits that in view of the same, the petitioner department, through Mr. Sanjeev Kumar, Executive Engineer, filed a second affidavit dated 18.05.2024 thereby reiterating the aforementioned explanation and further stating that upon inquiry from the Union of India Legal Section High Court, it came to the knowledge of the department that no letter pertaining to the handing over of the files was ever issued to the Union of India by the concerned counsel, and thus, it was informed that the erstwhile counsel was no longer on the panel of the Union of India.

10. With respect to the delay, the learned counsel for the petitioner submits that by way of this affidavit, it was also mentioned that upon contacting the Litigation Section on 30.10.2023 for appointment of a new counsel, no information was received by the department. In view of the same, they sent a reminder letter on 29.02.2024 whereafter, the



2025:DHC:9780



Litigation Section verbally informed that a new counsel had been appointed, and thus, followed the drafting and filing of the restoration application after a delay of 141 days.

11. It is submitted that the aforesaid affidavit records that the office of the Additional Director General Delhi, CPWD, issued directions to EE, P-Division on 18.10.2023 directing them to be vigilant in future while dealing with Court cases in the interest of the Government. Furthermore, *qua* the action taken against the responsible individual, an Order dated 17.10.2023 was passed by the Principal Accounts Office, Ministry of Housing & Urban Affairs, Nirman Bhawan, Delhi, whereby, the nodal officer of this case was transferred from the office of P-Division.

12. Learned counsel for the petitioner submits that despite the explanation given in this affidavit, this Court on 26.11.2024, being dissatisfied with the same, granted a last opportunity to the petitioner to file a specific detailed affidavit of Additional Director General Delhi, CPWD, disclosing any actions that have been taken against the responsible officials.

13. She submits that in compliance of the above stated Order, a third affidavit dated 18.12.2024 was filed on behalf of the Additional Director General Delhi, CPWD, informing therein that Sh. Sanjeev Kumar, Executive Engineer, has now been transferred from the P-Division *vide* a letter dated 03.10.2024. She submits that the petitioner



firmly assured in the affidavit that all future court cases pertaining to the P-Division, CPWD will be dealt with more caution and vigilance.

14. *Per Contra*, the learned counsel appearing on behalf of the respondents raised serious objections against the present applications being allowed, submitting to the effect that due to the misconduct of the petitioner, the workmen who were able to obtain a relief from the learned Labour Court, continue to suffer till date. He therefore, submits that in view of the inaction of the petitioner and vague affidavits filed by it, the present applications may be dismissed.

15. Heard learned counsels for the parties and perused the material available on record, including the affidavits along with supporting annexures filed in the interregnum.

16. It is a well-settled principle of law that a party should not suffer on account of the negligence or fault of his/her counsel. However, the party has to show '*sufficient cause*' for condonation of delay in filing an appeal or an application which implies the presence of legal and adequate reasons which are sufficient to persuade the Court to treat the reasons as reasonable to condone the delay. It is not the length of the delay that matters, but the sufficiency of the cause for such delay that holds significance. In a case decided by the Division Bench of this Court in ***Mr. L. K. Kaul Thr. LRs. v. Sh. Pradeep Kumar Khanna (HUF) & Ors.***, 2014 SCC Online Del 6640, it was observed as under:

“8. There is no gainsaying the fact that the primary duty of the Court is to adjudicate the disputes between the parties on merits of the case after giving due



opportunity to them. It is also a settled legal position that it is not the length of the delay which can destroy the rights of the parties but the acceptability of the explanation which is the only criterion to be examined by the Courts in the exercise of judicial discretion for condoning any delay in filing the restoration application.

In N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123, the Hon'ble Supreme Court took a view that sometimes delay of the shortest range may be non-condonable due to want of an acceptable or reasonable explanation, whereas in certain other cases, delay of very long period can be condoned in case the explanation thereof is satisfactory. The relevant para of the said judgment is reproduced as under : -

“It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncontainable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.”

17. As stated above, the term ‘sufficient cause’ should be given liberal interpretation so that the substantial justice is being done.



2025:DHC:9780



18. In the present case, the affidavit dated 18.12.2024 filed on behalf of the Additional Director General Delhi, CPWD, records that the individual responsible in this matter, Sh. Sanjeev Kumar, Executive Engineer, has now been transferred from the P-Division, CPWD. It is also indicated in the affidavits filed on record that the petitioner department issued letters dated 15.09.2023 and 09.10.2023 to the previous counsel seeking a response for his non-appearance on 01.09.2023, i.e., the date when the petition was dismissed in default. The petitioner department also vigilantly contacted the Litigation Section of Department of Legal Affairs seeking appointment of a new counsel to defend the matter. In support of these contentions, the petitioner has also annexed all these communications made through letters along with the affidavits.

19. Though in the present case, the petitioner is not a private individual but a government body who has many panel lawyers for legal accusations, yet if the sufficient reasons are shown for non appearance, the delay is liable to be condoned and the writ petition is liable to be restored. It is indicated from the record that the petitioner has acted diligently and made *bona-fide* efforts for appointment of new panel counsel when the earlier counsel has failed to act diligently.

20. Learned counsel for the petitioner has also argued that on merits she has a good case and therefore, notice was issued in this matter prior to its dismissal. Accordingly, in view of the above, this Court



2025:DHC:9780



observes that in the interest of justice, a fair opportunity to challenge the impugned award may be given to the petitioner department.

21. Accordingly, finding the cause of non-appearance as sufficient, the applications for condonation of delay and restoration of this writ petition are allowed. The Order dated 01.09.2023 is set aside and the writ petition is restored to its original number subject to the cost of Rs. 50,000/- to be paid by the petitioner to eight workmen proportionately as this prolonged litigation has been affecting the respondent workmen in favour of whom, a relief of reinstatement along with 25% back wages was granted.

22. With the aforementioned directions, the present applications stand disposed of.

W.P.(C) 6254/2013

23. List the matter on 11th February, 2026 for further consideration.

RENU BHATNAGAR, J

NOVEMBER 10, 2025

P/Sm