



**State of H.P. & Anr. vs. Gurcharan Industries
OMP(M) No.3 of 2023**

24.04.2024 Present: Mr. Rupinder Thakur, Additional Advocate General, for the applicants.

Mr. J.S. Bhogal, Senior Advocate, with Ms. Swati Verma, Advocate, for the non-applicant/respondent.

OMP(M) No.3 of 2023

By way of this application, a prayer has been made for condonation of delay in filing the appeal.

The judgment in the petition preferred under Section 34 of the Arbitration and Conciliation Act, 1996 was pronounced by the learned District Judge, Shimla on 15.06.2022. In the application praying for condonation of delay in filing the appeal, it stands mentioned that after decision in the matter by the learned District Judge, certified copy of the judgment was received in the office of Engineer-in-Chief HPPWD on 06.08.2022. Thereafter, the matter was processed for legal opinion and referred to the Legal Cell. The matter was further referred to the Law Department and the opinion of the Law Department was conveyed vide letter dated 30.08.2022, which was received in the office of Executive Engineer on 13.09.2022. The appeal could not be filed, as most of the officials were on election duty and thereafter the draft appeal was vetted on 16.11.2022, as election duties ended on 14.11.2022 and the matter was forwarded for vetting to the office of learned Advocate General on 17.11.2022. These are the reasons assigned in the application for condonation of delay in filing the appeal.

Learned Senior Counsel appearing for the non-applicant/respondent has drawn the attention of the Court to certified copy of the judgment passed by the learned District Judge appended with the present appeal. He submitted that in the application it is mentioned that a certified copy of the judgment was received in the office of Engineer-in-Chief on 06.08.2022, yet a perusal of the certified copy appended with the appeal demonstrates that the same was applied only on 27.10.2022 and thus, it is not understood as to which is that certified copy which finds reference in the application filed under Section 5 of the Limitation Act. Learned Senior Counsel, thus submitted that this itself demonstrates the casual attitude with which the applicant is dealing with the matter and, therefore, the application deserves to be dismissed.

On the other hand, learned Additional Advocate General has submitted that as delay in filing the appeal is of 72 days and further as it would be in the interest of justice to condone the delay and hear the appeal on merit, this application be allowed. He further submitted that the facts pointed out by the learned Senior Counsel appearing for the non-applicant/respondent will be taken care of in future and this time, indulgence be shown by the Court.

Having heard learned Additional Advocate General for the applicant as well as learned Senior Counsel for the respondent, though the Court observes that intra departmental delays are no ground for condonation of delay, yet in the interest

of justice, this application is allowed, as the delay in filing the appeal is about 72 days only, so that the applicant gets an opportunity to address submissions in the appeal on merit. The application, therefore, is disposed of by condoning the delay in filing the appeal.

Arb. Appeal No. _____ of 2024

Be registered.

Issue notice. Ms. Swati Verma, Advocate, accepts notice on behalf of the respondent and on her instructions, Mr. J.S. Bhogal, learned Senior Counsel also appeared on behalf of the respondent.

List for admission after two weeks.

(Ajay Mohan Goel)
Judge

April 24, 2024
(Vinod)