

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – MA 115 of 2023 [OA 1133 of 2012]

Sk. Hamid Ali -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Ms. S. Dey,
Ld. Advocate.
For the State Respondent : Mrs. S. Agarwal,
Ld. Advocate.

01
05.02.2024

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Affidavit of service filed be kept on record.

The prayer in this application is for recalling the order dated 23.04.2024. Ms. Dey, learned counsel for the applicant prays that due to error 2014 has been wrongly recorded as 2024. Let such correction be made in the application during the course of the day.

By an order dated 23.04.2014 in OA 1133 of 2012, the application was dismissed for default. The main reason forwarded by Ms. Dey in filing this application after a long gap of 10 years is due to “non-communication” of the order by the former counsel. Ms. Dey also refers to the restrictions during the Covid-19 pandemic as a reason for the delay in filing this application. Section 5 of the Limitation Act, 1963 requires condonation of delay only if there is “sufficient cause”. The relevant portion of the Section 5 is as follows :

“5. *Extension of prescribed period in certain case. – Any appeal or any application, other hand an application under any of the provisions of Order XXI of the Code of Civil Procedure, 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.”

ORDER SHEET

Sk. Hamid Ali

Form No.

Case No. **MA 115 of 2023 [OA 1133 of 2012]**

Vs.

The State of West Bengal & Ors.

In the opinion of this Tribunal, there was not sufficient and satisfactory cause for the delay in filing the application after more than 10 years. Failure of the previous counsel to communicate does not fall under “sufficient cause”. As for restrictions due to Covid pandemic, it would have affected the parties only during 2020-2022. Therefore, this application is not allowed.

Accordingly, this application is **disposed of**.

SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)