

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1399 of 2024

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UNION OF INDIA & ORS.

Versus

DILIP WAGHESHWARI S/O DANABHAI WAGHESHWARI

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Appearance:

MRS KRISHNA G RAWAL(1315) for the Petitioner(s) No. 1,2,3,4
for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE UMESH A. TRIVEDI

and

HONOURABLE MR. JUSTICE RAJENDRA M. SAREEN

Date : 13/03/2024

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE UMESH A. TRIVEDI)

[1] This petition is a classic example of sheer lethargic attitude and total disregard of Court proceedings by the petitioners, who are Union of India and its Officers, praying for quashing and setting aside two orders dated 08.09.2021 passed in MA No.190 of 2021 with MA No.191 of 2021 in Original Application No.249 of 2017 as also order dated 04.10.2018 in MA Nos.448 & 449 of 2017 in Original Application No.249 of 2017, which came to be rejected and partly allowed granting 6 months' time to conclude the departmental proceedings with rider that if on expiry of said period of six months also the departmental proceedings

remains incomplete, for the reasons other than non-cooperation of applicant of OA, the same shall be deemed to be non-est w.e.f. the date on which period of six months is expired, respectively.

[2] The facts of this case are required to be mentioned from the order passed by the Central Administrative Tribunal, Ahmedabad Bench (hereinafter referred to as 'the Tribunal'), in Original Application No.249 of 2017 as under.

[3] The respondent - original applicant before 'the Tribunal' serving as Programme Executive (PEX) at Regional Academy of Broadcasting & Multimedia (Programme), Ahmedabad, filed aforesaid Original Application No.249 of 2017 before 'the Tribunal', which came to be rejected having no merit in it but respondent - original applicant was directed to co-operate with the proceedings in progress. Interim relief granted earlier in that Original Application stands vacated but with a further direction to the petitioners - respondents in OA to ensure that the proceedings are completed as expeditiously as possible and in any case within three months from the date of receipt of a copy of the order passed by 'the Tribunal'. The

said order came to be passed on 07.07.2017. Not only that, petitioners did not conclude or complete the proceedings against the respondent - original applicant, they prayed for an extension of time to conclude the proceedings by filing M.A. Nos.448 of 449 of 2017 in Original Application No.249 of 2017, which came to be allowed by 'the Tribunal' vide order dated 04.10.2018 and para-6 thereof would be most important to be quoted here as under:

"6. Taking note of submissions and backdrop fact of the six months' time is granted to conclude the departmental proceedings with rider that if on expiry of said period of six months also the departmental proceedings remains incomplete, for the reasons other than non-cooperation of applicant of OA, the same shall be deemed to be non-est w.e.f. the date on which period of six months is expired."

[4] Despite period of aforesaid six months concluded without raising any grievance about non-cooperation of the respondent - original applicant, petitioners again applied by way of MA No.190 of 2021 with MA No.191 of 2021 in OA No.249 of 2017, praying for condonation of delay for a period of 2 years and 2 months by way of MA No.191 of 2021 and praying for extension of time of further six months to conclude the departmental proceedings by filing MA No.190 of 2021.

Both came to be rejected by 'the Tribunal' vide order dated 08.09.2021 recording the reasons in para - 4 of the impugned order, which is quoted as under:

"4..... The present MA No.190/2021 seeking extension of time by six months to conclude the departmental proceedings has been filed by the respondents with a delay of two years and two months. The reasons given in the MA No.191/2021 seeking condonation of delay of two years and two months is really bizarre and the reason given that the application for extension had been prepared by the concerned advocate but the same could not be circulated. Even on consideration of the submission about procedural delay, the delay of two years and two months is not acceptable. Hence MA No.191/2021 to condone the delay is rejected."

[5] At the same time, MA No.190 of 2021 seeking further extension of six months time also rejected on the ground that it is not tenable, in view of the fact that while granting extension in the year 2018, six months time was extended to conclude the departmental proceedings with rider that if on expiry of said period of six months also, the departmental proceedings remains incomplete, for the reasons other than non-cooperation of the applicant of OA, the same shall be deemed to be non-est w.e.f. the date on which period of six months is expired. Not only that, prayer for condonation of delay of two years and two months prayed

before 'the Tribunal' came to be rejected, petitioners further took more than two years time to challenge the very same order in filing the present SCA, which is a classic example of either deliberate delay or total callous approach with the Court proceedings demonstrated by the petitioners.

[6] Any amount of extension or reading any paragraph from even additional affidavit cannot salvage the situation as not only the impugned orders which are challenged refusing the condonation of delay, this petition under Article 227 of the Constitution of India has come to be filed after more than two years delay by the petitioners, and therefore, this petition is required to be rejected with cost of Rs.25,000/-, to be deposited with the Gujarat State Legal Services Authority within a period of 04 (four) weeks from today.

[7] Accordingly, the present petition stands rejected.

(UMESH A. TRIVEDI, J.)

(RAJENDRA M. SAREEN, J.)

Lalji Desai