

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL.86 OF 2009
[Arising out of SLP{C} No.6439 of 2007]

Commissioner Nagar Parishad, Bhilwara

... Appellant

VERSUS

Labour Court, Bhilwara, and Anr.

... Respondents

ORDER

1. Leave granted.

2. This appeal is directed against an order dated 23rd of September, 2005 of the High Court of Judicature for Rajasthan at Jodhpur, whereby the Division Bench of the High Court dismissed an appeal filed by the appellant on the sole ground of limitation.

3. Heard learned counsel for the parties. After going through the impugned order as well as the application for condonation of delay in filing the appeal before the High Court, we are of the view that the facts and circumstances of the present case stated

the application for condonation of delay in filing the appeal did constitute the sufficient case for condoning the delay in filing the appeal. It is not in dispute that there was a delay of 178 days in filing the appeal against the order of the learned Single Judge dated 12th of March, 2004. While rejecting the application for condonation of delay, the High

Court had considered the merits of the appeal and then rejected the application for condonation of delay. While deciding an application for condonation of delay, it is well

settled that the High Court ought not to have gone into the merits of the case and would have only seen whether sufficient cause had been shown by the appellant for condoning the delay in filing the appeal before it. We ourselves have also examined the application

filed under Section 5 of the Limitation Act before the High Court and, in our opinion, the delay of 178 days has been properly explained by the appellant. That being the position, we set aside the impugned order of the High Court. Consequently, the appeal filed before the High Court is restored to its original file. The High Court is reque

sted to

decide the appeal on merit in accordance with law after giving hearing to the parties and after passing a reasoned order.

4. The appeal is allowed to the extent indicated above. There will be no order as to costs.

.....J.

[TARUN CHATT

ERJEE]

NEW DELHI:
JANUARY 12,2009

.....J.
[H.L.DATTU]

ITEM NO.58 COURT NO.6 SECTION XV
(For orders)

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6439/2007

(From the judgement and order dated 23/09/2005 in DBCSA No. 5064/2004 of The HIGH COURT OF RAJASTHAN AT JODHPUR)

COMMISSIONER NAGAR PARISHAD BHILWARA

Petitioner(s)

VERSUS

LABOUR COURT BHILWARA & ANR.

Respondent(s)

(With appln(s) for exemption from filing O.T. and with prayer for interim relief and office report)

Date: 12/01/2009 This Petition was called on for Orders today.

CORAM :

HON'BLE MR. JUSTICE TARUN CHATTERJEE
HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s) Mr. Sarad Kumar Singhania,Adv.

For Respondent(s) Mr. K.L. Janjani,Adv.

Mr.Pankaj Kumar Singh, Adv.
Dr.Vinod Tewari, Adv.
Mr.J.P.N.Gupta, Adv.

UPON hearing counsel the Court made the following
ORDER

Hon'ble Mr.Justice Tarun Chatterjee pronounced the Order of the Bench comprising of His Lordship and Hon'ble Mr.Justice H.L.Dattu.

Leave granted.

The appeal is allowed to the extent indicated in the signed order. There will be no order

as to costs.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed non-reportable Order is placed on the file)