

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).25470/2010

(From the judgement and order dated 05/10/2009 in MP (MD) No.1/2009
in WA (MD) SR No.7546/2009 of The HIGH COURT OF MADRAS)

B.S.RAMAN PILLAI Petitioner(s)

VERSUS

CHIEF OF AIR STAFF & ORS. Respondent(s)

Date: 10/10/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Mr. Vijay Kumar, Adv.
Ms. Sangeeta Kumar, Adv. (SCLSC)

For Respondent(s) Mr. Parag P. Tripathi, A.S.G.
Mr. Ashok K. Srivastava, Adv.
Ms. Anitha Sahani, Adv.
Mr. J.K. Mishra, Adv.
Mrs Anil Katiyar, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The Appeal is disposed of in terms of the signed
order.

(Rajesh Dham)
Court Master

(Renu Diwan)
Court Master

(signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8515 OF 2011
(arising out of S.L.P. (C.) No. 25470 of 2010)

B.S.RAMAN PILLAI Appellant(s)

VERSUS

CHIEF OF AIR STAFF & ORS. Respondent(s)

O R D E R

Heard.

2. Leave granted.

3. A Writ Appeal was filed before the High Court by the appellant beyond 2907 days. He prayed for condonation of delay in filing the Writ Appeal. The cause for delay was explained in para 7 of the application.

4. The Division Bench of the High Court considered this aspect in para 4 of the order dated 05.10.2009 and observed as follows :-

"We agree with the submission made by the learned counsel appearing for the respondents that the delay in filing the appeal apart from enormity has not been properly explained to the Court except the cause of asthamatic problem and financial situation."

5. In the application for condonation of delay, the appellant set out the reason, besides his health problem and

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financial constraint, that he was not aware of the order dated February 6, 2001 till 1st week of March, 2007. The letter sent by the advocate regarding the writ petition was never received by him. It appears that the cause shown in para 7 of the application that the appellant was not aware of the order dated February 6, 2001 until 1st week of March, 2007 has escaped consideration by the Division Bench.

6. In para 7 of the application, the appellant stated thus:-

"....The writ petition was disposed of in the Principal Bench of Madras High Court I was not aware of the same till the 1st week of March 2007 when I went to Chennai to enquire about the pendency of the writ petition. I state that I was informed that the writ petition was disposed on 06.02.2001 and my counsel wrote to me about the disposal of the writ petition. Unfortunately the letter wrote by my counsel did not reach me at all..."

7. Mr. Parag P. Tripathi, learned Additional Solicitor General for the respondents, submits that the respondents had no opportunity to respond to the above statement made in

the application.

8. Be that as it may, we are satisfied that for the reasons explained in the application, the appellant has been able to make out a case that he was prevented by sufficient

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cause in filing the appeal in time. We are satisfied that the cause shown by the appellant deserves acceptance and the Division Bench ought to have condoned the delay in filing the appeal.

9. We, accordingly, set aside the impugned order and restore the writ appeal for consideration on merits by the Division Bench of the High Court.

10. The Appeal is disposed of as indicated above. No order as to costs.

.....J.
(R.M. LODHA)

NEW DELHI;
OCTOBER 10, 2011

.....J.
(JAGDISH SINGH KHEHAR)