

SUPREME COURT OF INDIA

Commissioner Nagar Parishad, Bhilwara

Vs.

Labour Court, Bhilwara

C.A.No.86 of 2009

(Tarun Chatterjee and H.L.Dattu JJ.)

12.01.2009

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 in 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 requested 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.