

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

I.A. No.416 of 2013

IN

DFR No.2309 of 2013

Dated:10th Jan, 2014

**Present : HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM, CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER**

In the Matter of:

**Rajasthan Vidyut Prasaran Nigam Limited
Vidyut Bhawan, Jyoti Nagar,
Jaipur-302 005**

...Appellant/Applicant

Versus

- 1. Rajasthan Electricity Regulatory Commission
Vidyut Viniyamak Bhawan,
Near State Motor Garage,
Sahakar Marg,
Jaipur**
- 2. M/s. Shree Cement Limited,
Bangur Nagar,
Bewar, District Ajmer,
Rajasthan**

...Respondent(s)

**Counsel for the Appellant(s): Mr. Pradeep Misra
Mr. Shashank Pandit**

**Counsel for the Respondent(s): Ms. Anushree Bardhan
Mr. M.G. Ramachandran for R-2**

/ O R D E R /

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. This is an Application to condone the delay of 293 days in filing an Appeal as against the Impugned Order dated 28.12.2012 passed by the Rajasthan State Commission.
2. We have heard the learned Counsel appearing for the Applicant/Appellant and the learned Counsel for the Respondents.
3. The explanation for the delay of 293 days in filing the Appeal is given in the Application to condone the delay. The same is as follows:

“The State Commission passed the Impugned Order on 28.12.2012. This was received by the Applicant on 1.1.2013. The Applicant/Appellant thereafter filed the Review Petition on 28.3.2013 along with the Application to condone the delay in filing the Review. This Application was heard by the State Commission on 3.5.2012 which in turn condoned the delay in filing the Review Petition and admitted the same. Ultimately, the State Commission dismissed the Review Petition by the Order dated 14.8.2013. This was received by the Applicant/Appellant on 16.8.2013. Thereafter, the matter was considered at different

levels and opinion was sought from the Counsel for the Applicant/Appellant. In pursuance of the opinion, a decision was taken by the Applicant/Appellant to file the Appeal. Accordingly, the Appeal was drafted and after completing the process, the Appeal was filed on 22.10.2013. This delay is unintentional, bona fide and the same is liable to be condoned in the interest of the justice”.

4. This Application for condonation of the delay is stoutly opposed by the 2nd Respondent which is the contesting Respondent contending that there is no satisfactory explanation for the huge delay of 293 days and therefore, the Application has to be dismissed and consequently the Appeal has to be rejected.
5. The learned Counsel for the 2nd Respondent cited the Order passed by this Tribunal in IA No.189 of 2012 passed on 14.8.2012 dismissing the Application for condonation of inordinate delay as there was no sufficient cause.
6. We have heard the learned Counsel for both the parties in regard to the condonation of delay.
7. There is no dispute in the fact that the main Order was passed on 28.12.2012 and after some delay, the Applicant/Appellant filed a Review Petition on 28.3.2013 and after condoning the delay, Review Petition was admitted by

the State Commission on 3.5.2013. Ultimately, the Review Petition was dismissed only on 14.8.2013 i.e. nearly after four months. But, it is noticed that even though the said order was received by the Applicant/Appellant on 16.8.2013, the present Appeal has been filed only on 22.10.2013 i.e. after two months. Though, there is some reason for the delay between the period between 28.3.2013, the date of filing of the Review Petition and 14.8.2013, the date of dismissal of the Review Petition, there is no proper explanation offered by the Applicant/Appellant for the delay between 16.8.2013 the date of receipt of the Review Order and 22.10.2013, the date of filing of the Appeal.

8. The learned Counsel for the Applicant/Appellant reiterated the averments contained in the Application to condone the delay contending that some time was taken for getting the opinion from the Counsel and after that in drafting the Appeal. This explanation, in our view, would not be construed to be a sufficient cause shown to condone this inordinate delay.
9. As indicated above, even subsequent to the receipt of the Review Order on 16.8.2013; there was a further delay in filing the Appeal since the Appeal has been filed only on 22.10.2013.

10. The explanation given by the Applicant/Appellant that it took some time for getting the opinion and drafting the Appeal which ultimately was filed on 22.10.2013, cannot be accepted as a satisfactory explanation.
11. In the absence of any satisfactory explanation, we cannot brush aside the objections raised by the Respondent that there was a delay due to lack of bona fide and diligence on the part of the Applicant/Appellant.
12. Accordingly, we uphold the objections raised by the 2nd Respondent and deem it fit to dismiss the Application for condonation of inordinate delay of 293 days. Accordingly dismissed.
13. Consequently, the Appeal is also rejected.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:10th Jan, 2014

✓ ~~REPORTABLE/NON-REPORTABLE~~