

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 294 of 2006 (S/B)

Bhawani Ballabh S/o Shri G.N. Nautiyal,
Management Trainee,
Dugdh Utpadan Sahkari Sangh Ltd.,
Dehradun.

..... Petitioner

Versus

Public Service Commission,
Uttarakhand, Haridwar,
Through its Secretary.

..... Respondents

JUDGMENT

**Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Dharam Veer, J.**

RAJEEV GUPTA, C.J. (Oral)

Petitioner's counsel absent.

Mr. B.D. Kandpal, Advocate for the respondent.

2. As there is no representation on behalf of the petitioner, we are left with no other option but to dismiss the writ petition for want of prosecution.

3. The writ petition, therefore, is dismissed for want of prosecution.

(Dharam Veer, J.)

31.08.2007

(Rajeev Gupta, C. J.)

31.08.2007

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MCC No. 20 of 2008 (Restoration Application)

Writ Petition No. 294 of 2006 (S/B)

Bhawani Ballabh Petitioner

Versus

Public Service Commission Uttaranchal,
Haridwar (Uttaranchal) through its
Secretary Respondent

.....

Sri B.P. Nautiyal, Advocate for the petitioner.
Sri B.D. Kandpal, Standing Counsel for the respondent.

Hon'ble Rajeev Gupta, C.J.

Hon'ble J.C.S.Rawat, J.

Sri B.P.Nautiyal, Advocate for the petitioner.
Sri B.D.Kandpal, Standing Counsel for the respondent.

2. They are heard on CLMA No. 63 of 2008 – a petition for condonation of delay in filing the restoration petition.
3. The Delay Condonation Application filed by the petitioner reads as follows:

“To

The Hon'ble Chief Justice and his other companion Judges of the aforesaid Court.

The humble application of the above noted applicant most respectfully sheweth as under:

1. That it is expedient and in the interest of justice that this Hon'ble Court may graciously be pleased to condone the delay of 68 days in filing the present restoration application, otherwise the applicant will suffer irreparable loss and injury.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to condone the delay of 68 days in filing the present restoration application and/or pass any other or further order, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

Datd: 4/01/2008

Sd/-(B.P.Nautiyal)
Advocate
Counsel for Applicant”

4. The affidavit filed in support of the Delay Condonation application reads as follows:

“ Affidavit of Mahesh Pathak, aged about 26 years s/o Sri Tara Datt Pathak R/o Behind Shervani Hill Top Inn, Mallital, Nainital.

I, the deponent named above do hereby solemnly affirmed and state on oath as under:

1- That the deponent is the clerk of the Counsel for the applicant in the above noted case and as such he is fully acquainted with facts deposed below.

hereby swear that the contents of para no. 1 of this affidavit and those of para no. 1 to 5 of the restoration application and para no. 1 of the civil misc. Delay Condonation Application are partly true to my personal knowledge and partly as per record which I believe to be true and partly as per legal advice received which I believe to be true that no part of this affidavit is false and noting material has been concealed in it.

So help me God.

Sd/- Mahesh Pathak
Deponent”

5. A bare reading of the above quoted Delay Condonation Application and the Affidavit filed in support of the Delay Condonation Application reveals that the petitioner has not shown any cause, much less sufficient cause, for the delay of 68 days in filing the restoration petition.

6. As the petitioner has miserably failed in showing sufficient cause for the delay of 68 days in filing the restoration petition, we are left with no other option but to dismiss the Delay Condonation Application.

7. CLMA No. 63 of 2008, therefore, fails and is hereby dismissed.

8. Consequently, M.C.C No 20 of 2008 also stands dismissed as ‘time-barred’.

(J.C.S.Rawat, J.)
08.01.2008

(Rajeev Gupta, C.J.)
08.01.2008