

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRADESH)
ITANAGAR PERMANENT BENCH

Appeal From
Writ Petition (Civil)

MC (MAC. APPL) No. 01..... (AP) 2010
IN
MAC. APPL. (AP) 2010

Shri Taken Pude

Appellant
Petitioner.

-Versus-

~~Member, MACT - Daperijo - 2 & 2 others~~
Commandant (GREF) C/O 99 A.P.O. 77-RCC Daperijo & Anr. Respondent
Opposite Party.

Counsel for the Appellant Mr. D. Panging
Petitioner. Ms. S.V. Darang
Mr. D. Soki
Mr. C.N. Pangyok

Counsel for the Respondent
Opposite Party. Mr. Ramdeep Sharma, ASG.

Noting by Officer or Advocate	Serial No.	Date	Office note, reports, orders or proceeding with signature
(1)	(2)	(3)	(4)

IN THE MATTER OF:

Shri Taken Pute, S/o Shri Takap
Pute, R/o Giba Village, P.O & P.S
Daporijo, Upper Subansiri distt.
Arunachal Pradesh.

...Appellant/ Claimant

-Versus-

X Respondent no.1 struck off
vide the Hon'ble Court order
dated 29.11.2010.

X 1. Member, MACT- Daporijo,
Upper Subansiri- distt.
Arunachal Pradesh

2. Commandant (GREF) c/o 99
A.P.O 77-RCC Daporijo, Upper
Subansiri distt. Arunachal
Pradesh.

3. Shri Md. Janil (driver), Chest
no. GS- 165168, C/o- 99 A.P.O,
77-RCC GREF, Upper Subansiri
distt, Arunachal Pradesh.

.....Respondents

**BEFORE
THE HON'BLE MR. JUSTICE HRISHIKESH ROY**

24.1.2011

Heard Mr. D. Panging, learned Counsel appearing for the applicant (appellant). Also heard Mr. A. Mannan, learned Central Government Counsel who appears for the official respondents.

This application under Section 5 of the *Limitation Act* is filed seeking condonation of 1141 days delay in filing the connected appeal.

It is pointed out by the applicant that when the appeal was initially dismissed for default on 24th October 2002 by the Member, MACT, Daporijo, the restoration application filed immediately thereafter, was wrongly rejected by the learned Tribunal by its order dated 14th February 2007 on the erroneous ground that the restoration petition was filed belatedly, after a gap of over 4 years on 12.12.2006.

In order to test the veracity of the applicant's claim that the restoration application was filed immediately, the original records of the Tribunal was requisitioned and the records has been perused in presence of Mr. D. Panging and Mr. A. Mannan, learned Counsels appearing for the contesting parties.

It appears from the Tribunal records that the application for recall of the dismissal order was not filed after 4 years on 12.12.2006 as was recorded on 14.2.2007 by the learned Tribunal. But the said application, seeking restoration of the MACT 2/2002 was filed immediately as I find an endorsement in original of the Deputy Commissioner dated 13.1.2003 on the restoration application which shows that the learned Tribunal wrongly recorded that it was belatedly filed after 4 years.

In such circumstances, it is apparent that the learned Tribunal was in error in not considering the restoration application on merit.

Considering the fact that the applicant is paralyzed below his waist and is capable of only limited mobility, I am of the view that delay is sufficiently explained by the applicant. In any case,

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the order of the learned Tribunal dated 14.2.2007 is found to be erroneous.

In view of above and after hearing the learned Counsels, I am inclined to allow this application. Accordingly the delay in filing the connected MAC appeal stands condoned.

Office to number the appeal and post it for admission next week.


JUDGE