

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, DELHI**

**Misc. Application in disposed appeal no. D-1/64/2024
M/s. Vihangam Secirity services Pvt. Ltd. Vs. RPFC Delhi West**

Present: Sh. Abinash Kumar & Sh. Amar Kumar, Ld. Counsel for the
Applicant
Sh. S.N. Mahanta, Ld. Counsel for Respondent.

ORAL

Order Dated- 08.07.2025

1. The counsel for the applicant/ appellant has pressed his application which he has filed on 11.06.2025 whereby he had made prayer that order passed by this tribunal on 05.03.2025 dismissing the application for condonation of delay be recalled and set aside.
2. Reason being that the tribunal had passed the order dated 05.03.2025 without hearing the appellant/ applicant in person or its earlier counsel. It is further stated that the applicant / appellant cannot be penalized for mistake of its counsel as delay in filing the appeal is not on the part of the appellant rather than it is fault of the counsel who even after receipt of all required information/ documents failed to file the appeal within prescribed time limit.
3. When the application has been filed, office has also placed the record of this appeal. On perusal of the record, it appears that at the time of filing of this appeal, office had reported that the appeal was filed beyond the prescribed period of limitation. However, since advance notice has been given to the respondent, respondent had put in his appearance and requested some time to file written objection to the prayer for condonation of delay. Thereafter, on two occasion, the matter was adjourned en-block, however, on 18.02.2025 when the undersigned had taken the charge of CGIT1, Delhi, notice was issued to the appellant for hearing the misc. application filed for condonation of delay. Notice was served. Even on 05.03.2025, nobody appeared on behalf of the appellant.

This tribunal after perusing the record had taken the task of disposing the application filed for condonation of delay in filing the appeal. Appellant himself had admitted that he had received the impugned order dated 28.02.2024 in the first week of March, 2024. Reason given in the application was not considered as valid grounds for condonation of delay. As such application under **section 5 and 29 of the Limitation Act, 1961** read with **Rule-7 of the Tribunal (Procedure) Rules, 1997 (hereinafter referred as 'the Rules')** stood dismissed. Consequent thereto, the appeal was also dismissed.

4. In this backdrop, this present application has been filed. The counsel for the appellant has relied upon Rule 15 and stated that without hearing him, the tribunal had dismissed his application. **Rule 15 of 'the Rules'** is required to be reproduced hereunder for ready reference:-

15. Action on appeal for appellant's default.(1) Where on the date fixed for hearing of the appeal or on any other date to which such hearing may be adjourned, the appellant does not appear when the appeal is called for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merit.

(2) Where an appeal has been dismissed for default and the appellant files an appeal within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the appeal and restore the same.

Provided, however, where the case was disposed of on merits the decision shall not be re-opened except by way of review.

5. The reliance placed by the applicant counsel is misconceived. The application was not dismissed for want of prosecution rather it has been decided after considering the contents of the application.

6. The applicant counsel has further placed reliance upon Rule 21 of 'the Rules' wherein this tribunal is empowered to make an order or give such direction as may be necessary or expedient to give effect to its orders

or to prevent abuse of its process. The Rule 21 is reproduced hereunder for ready reference:-

21. Orders and directions in certain cases.—The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

7. Reliance placed upon this rule by the applicant's counsel is again misconceived. This tribunal has been given wide power to give order or a general direction as may be necessary or expedient to give effect to its orders. It does not give any leverage to the applicant for getting review of the order passed by this tribunal which has been passed after considering all the material on record.

8. In view of the above, the misc. application filed by the applicant under **Rule 15 and 21 of the Tribunal (Procedure) Rules, 1997** for review of the order dated 05.03.2025 passed by this tribunal is dismissed.

Sd/-

ATUL KUMAR GARG
(Presiding Officer)