

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1939 of 2005

Date of decision: May 06, 2015.

State of Haryana etc.

... **Petitioners**

v.

Ramesh Kumar

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Ramesh Kumar, Assistant Advocate General, Haryana,
for the petitioner.
Shri Amrit Paul, Advocate for the respondent.

Dr. Bharat Bhushan Parsoon, J. (Oral):

This revision petition by the State of Haryana and two others is directed against judgment and decree dated 18.1.2005 vide which their appeal against order dated 10.2.2004 passed by the lower court was dismissed, being time barred. Judgment and decree dated 10.2.2004 is also under challenge.

2. Ramesh Kumar plaintiff, respondent herein, had brought a suit for declaration averring that he was appointed a Gass Man through Haryana Subordinate Services Selection Board in August 1988 after following the due process of selection. He joined his duties on 9.8.1988 in the office of the defendants, petitioners herein. Promotion from the post of Gass Man is made to the post of Junior Lecture Assistant. Claiming that at the time of selection he was 9th standard pass but during the tenure of his employment with the defendants, petitioners herein, he had improved upon his educational qualifications and had become Matriculate and had also successfully completed his 15 years of unblemished service career whereas the requirement for the post was only 5 years of service.

3. The respondent had challenged the promotion of Sukhbir Singh, defendant No.4 made vide order dated 10.5.1996. He had made

representation to the Director, Higher Education, Haryana on 22.1.2001 through proper channel but no decision was communicated to him. Even name of defendant No.5, again a junior to the plaintiff, was considered and he was promoted.

4. When on a suit filed by the plaintiff, notice was issued to the defendants, defendant No.3 was proceeded against ex-parte on 26.7.2003, whereas defendant No.4 was proceeded against ex-parte on 29.8.2003 on their failure to appear before the court. Vide order of 5.11.2003, defence of the contesting defendants was also struck off on their failure to file written statement within the prescribed period. Sequel, the case was fixed for evidence of the plaintiff, respondent herein. He had produced oral as well documentary evidence. The plaintiff had made his statement on oath by way of an affidavit Ex.PW2/A and had produced documentary evidence in support of his claim.

5. Considering the entire evidence produced by the plaintiff, finding merit in his claim, his suit for declaration was decreed to the effect that he was entitled to be considered for promotion to the post of Junior Lecture Assistant with effect from 10.5.1996 and that he was senior to defendants No.4 and 5. It was also held that he was entitled to all consequential benefits admissible to him including arrears of difference of pay along with interest @ 15% per annum from 10.5.1996. The judgment was pronounced on 10.4.2004 and the decree had followed. Appeal against the decree was preferred on 28.7.2004, which was dismissed on the ground of delay.

6. In this revision petition, it is claimed that delay was beyond the control of the petitioner-defendants. Sequel, condonation of the same has been sought by way of an application under Section 5 of the limitation Act, 1963 and pleading the impugned order of 18.1.2005 is illegal, void ab-initio and against the principles of natural justice. Its reversal has been sought.

7. During the course of arguments, Counsel for the petitioners has urged that there is delay of only 5 months. It is urged that the State being an

impersonal machinery, works very slowly but has no individual interest to propagate or protect and thus cannot be equated with individual litigation.

9. Merely because one of the petitioners is the State of Haryana and two of the petitioners are its functionaries, ipso-facto is no ground to accept the revision petition. Rather, perusal of the paper book reveals that there is absolutely no ground for condonation of delay. If we see the impugned order of 18.1.2005 of the Additional District Judge, Hisar passed by him as the first appellate authority, there is no denying the fact that the judgment was pronounced by the lower court on 10.2.2004. Copy of judgment and decree was applied by the defendants, petitioners herein, expeditiously and they were supplied the certified copies on 13.2.2004. Opinion of the Legal Remembrancer, Haryana was thereafter sought by the defendants, petitioners herein which had become available to them on 1.4.2004. The appeal was preferred only on 19.7.2004.

10. Plea of Counsel for the petitioners that the courts had closed for summer vacation, is totally unconvincing as the courts had closed for summer vacation only on 16.6.2004, whereas there were full two months of April and May and half month till 15th June with them to proceed ahead. There is absolutely no explanation coming forth for such gross casual and reckless approach adopted by the petitioners, then appellants. Authorities reported as State of Hayrana v. Chandra Mani and others AIR 1996 SC 1623 and P.K. Ramachandran v. State of Kerala and naother AIR 1998 SC 2276 cited by the then appellants, petitioners herein, were duly considered by the court below but case of the appellants was found to be of no merit.

11. Condonation of delay is not a matter of routine. Contention of the State of Haryana that delay is to be condoned as a matter of routine, is not correct. Each day's delay has to be explained. During the course of arguments, it has also emerged that the decree has already been executed and satisfied vide order dated 12.5.2005.

12. Even viewed from another angle, attitude of the defendants, petitioners herein, right from the very start of this litigation has been very

casual, perfunctory and non-participative. It is worth notice that many adjournments were sought by these defendants for filing of the written statement but when the written statement was not furnished by them within the stipulated period, their defence was struck off on 5.11.2003. There is absolutely no explanation even on that count. The said order of striking off the defence was not even challenged.

13. Lethargy and non participative approach is further clear from the fact that even stay order operating against these defendants was never challenged in any forum. The same casual and reckless approach continued, being followed by the defendants even when the appeal was filed by them quite belatedly and without any justification for the inordinate delay. These days, the State is expected to perform quite efficiently and promptly being custodian of the interest of the public which feeds them by paying them taxes and thus it becomes an ardent duty of the State to safeguard the interest of the people at large.

14. Even otherwise, there is lot of change. We are living in the information era. Information and communication is fourth major revolution. It has rung death knell of distances. The world has shrunk into a dot. Cyber traffic, invisible to naked eyes, is many times more in volume and size, than any other surface, water or air traffic. Information and communication as also Technology, has changed the perception of man towards the ways:

- i) He communicates;
- ii) He accesses and processes information; and,
- iii) He lives and transacts his affairs in daily life.

15. In nutshell, information technology has changed the way of life, as also of business and production. The often-repeated plea that the State is an impersonal machinery and even though it works slowly, has no individual interest to serve and should not be equated with individual litigant, is an anarchonism and aberration in the modern context. In this era of management and administration at its best, studded with strides in

communication and informational technological advancements, we have seen introduction of management skills as also of information punctuated by technological advancements in every field of activity. Operational efficiency, skills of business management as also of professional competence have been added. Now, it can no more be pleaded by various Departments under the State that it takes time to obtain certified copy of judgment and decree to be appealed against from the courts or further that it takes time to obtain permission of the Legal Remembrancer for filing an appeal or making consultations with the decision-makers as to whether the appeal is to be filed or not?

16. Everything is available on-line. Certified copies are delivered without delay; opinion from the Law Department of the Government, if so wanted, may even be obtained with quickness infusing efficiency using state-of-the-art gadgets of information technology in place. If there is any gap or infrastructural deficiency on this count, the Governments can definitely take a leap forward in making the infrastructural and functional support addedly available.

17. In any case, in the present dispute, certified copies had been supplied within two days of pronouncement of judgment and concomitant preparation of decree sheet. Even opinion of Legal Remembrancer was received with expeditious dispatch but even then the appeal was preferred after three and a half months of opinion of the Legal Remembrancer giving go-ahead for filing of the appeal. The fault squarely lies with the petitioners and they cannot escape from its evil consequences.

18. There being no merit in the revision petition, the same is consequently dismissed with costs.

[Dr. Bharat Bhushan Parsoon]
Judge

May 06, 2015.
kadyan

1. *Whether Reporters of local papers may be allowed to see the judgment ? yes*
2. *Whether to be referred to the Reporters or not ? yes*
3. *Whether the judgment should be reported in the Digest? yes*