

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4813 of 2013 (O&M)
Date of Decision: 03.3.2015.

Vijay Singh (since deceased) through LRsPetitioners

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sachin Mittal, Advocate
for the petitioners.

Mr. Sharad K. Yadav, DAG, Punjab.

SABINA, J.

Petitioner (since deceased) has filed this petition under Article 227 of Constitution of India challenging the order dated 19.2.2013 (Anneuxre P-3) whereby application moved by the petitioner for condonation of delay in filing the appeal, was dismissed.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Petitioner Vijay Singh (since deceased) was dismissed from service as he had remained absent for 210 days i.e. from 21.5.2005 to 22.12.2005. Vijay Singh (since deceased) was dismissed from service after holding a departmental enquiry. Vijay Singh (since deceased) had filed suit for declaration challenging the order of his dismissal dated 25.3.2006. Suit filed by Vijay Singh (since deceased), was dismissed by the Trial Court vide

judgment/decreed dated 11.5.2011. Vijay Singh (since deceased) preferred an appeal against the said judgment and decree along with an application seeking condonation of delay of 466 days in filing the appeal. Learned Appellate Court while dismissing the application under Section 5 of the Limitation Act, 1963, held that Vijay Singh (since deceased) had been appearing before the Trial Court upto 12.5.2008. Vijay Singh (since deceased) took the plea that he could not attend the Court proceedings thereafter as he was suffering from epilepsy. However, no evidence had been led by Vijay Singh (since deceased) in support of his said plea. Vijay Singh (since deceased) was working in the police department and, thus, was expected to keep track of his case. However, Vijay Singh (since deceased) had failed to file the appeal within the prescribed period of limitation.

In the facts and circumstances of the present case, the learned Appellate Court rightly dismissed the application moved by Vijay Singh (since deceased) under Section 5 of the Act.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

March 03, 2015
Gurpreet