

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 5609 of 2014

Date of Decision: 31.03.2015

Satpal

.....Petitioner

Vs.

Punjab State Power Corporation Limited and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Inderjit Sharma, Advocate,
for the petitioner.

Ms. Meena Bansal, Advocate,
for the respondents.

SABINA, J.

Petitioner has filed this petition challenging the order dated 06.05.2014, whereby application moved by the petitioner for condonation of delay in filing the appeal, was dismissed.

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

Petitioner had filed suit for declaration challenging the order whereby his pension was reduced. Suit filed by the petitioner was dismissed by the trial Court vide judgment/decree dated 29.11.2012. Aggrieved against the said judgment/decree, petitioner preferred an appeal. Along with appeal, petitioner moved an application for condonation of delay of 60 days in filing the appeal. Vide the impugned order, the said application was dismissed.

It has been held by the Apex Court in Collector Land Acquisition Ananatng and other vs. Mst. Katiji and others AIR 1987 SC 1353 which read as under:-

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical consideration are pitted against each other cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides.

A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so”.

In the present case, the case of the petitioner is that he was not aware of the fact that the case has been decided on 29.11.2012. Rather

petitioner had been informed by his counsel that the orders had been reserved on 29.11.2012 after hearing arguments. Due to this reason, the delay in filing the appeal had occurred. The Appellate Court fell in error while dismissing the application, moved by the petitioner seeking condonation of delay in filing the appeal. The delay in filing the appeal could not be said to be intentional or deliberate in the present case. Moreover, the petitioner had nothing to gain by filing the appeal after delay. In case, the delay in filing the appeal had been condoned by the appellate Court, the appeal filed by the petitioner would have been disposed of on merits. In these circumstances, it would be just and expedient to set aside the impugned order so that the appeal filed by the petitioner can be disposed of on merits.

Accordingly, this petition is allowed. Impugned order dated 06.05.2014 is set aside. Consequently, the application moved by the petitioner seeking condonation of delay in filing the appeal is allowed. Appellate Court is directed to dispose of the appeal on merits.

Parties are directed to appear before the appellate Court on 11.05.2015.

(SABINA)
JUDGE

March 31, 2015
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