

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

Civil Writ Petition No.9586 of 2013

Date of Decision: 20.01.2015

Pushpinder Singh

.....Petitioner

Versus

Union of India & others

.....Respondents

CORAM:HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Anil Rathee, Advocate
for respondents No.2 to 5.

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

SURYA KANT, J. (ORAL)

The Original Application moved by the petitioner seeking appointment on compassionate grounds due to unfortunate demise of his father in harness, has been dismissed by the Central Administrative Tribunal, Chandigarh Bench, (hereinafter referred to as 'the Tribunal') vide order dated 16.12.2012 (Annexure P-4) being barred by limitation.

[2]. For the reasons stated hereinafter, we are of the considered view that the petitioner's application for condonation of delay requires re-determination by the Tribunal.

[3]. The father of the petitioner died on 04.12.2005. His application for appointment on compassionate ground under the ex-gratia policy was rejected vide order dated 29.05.2008 (Annexure A-1) on the ground that as per the new criteria prescribed by the respondents the petitioner's family was not found to be living in indigent condition as the net point awarded to his family

were less than 55. The petitioner submitted another representation on 12.12.2008 (Annexure A-2) requesting reconsideration of his case as per policy-cum-criteria of 1998.

[4]. Some more representations were apparently made by him before approaching the Tribunal on 06.06.2012 along with an application for condonation of delay.

[5] The respondents along with their reply appended two orders dated 03.09.2008 (Annexure R-3) and another dated 30.10.2010 (appended with Annexure R-3), purportedly communicating the petitioner that the matter was re-examined and the points earlier awarded to his family cannot be increased.

[6]. The Tribunal has, however, dismissed the Original Application as time barred observing that:-

“The present is a pure and simple case where the outcome of the relevant deliberation had come to be communicated to the applicant in the year 2007. The mere fact that the applicant opted to file a plea for re-consideration thereafter initially in the year 2008 and, thereafter, in the year 2011, would not protect him from the bar of limitation which would impede consideration of the OA on merits thereof.”

(emphasis applied)

[7]. It is true that repeated representations seeking reconsideration of a claim can neither revive the cause of action nor can be relied upon for extension of limitation. However, if the Authorities volunteered to reconsider and passed the orders dated 03.09.2008 and 30.10.2010, in that case, it appears to us that the period of limitation would start running from the date(s) of communication of these orders.

[8]. The question of fact which further requires determination is whether or not the order dated 03.09.2008 was conveyed to the petitioner or

the fate of reconsideration was first time communicated to him vide letter dated 30.10.2010 only? If the order of 2008 was conveyed, it is obvious that the petitioner is required to explain the delay from date of the receipt of that communication and his application seeking condonation of delay will have to be decided keeping in view the gap in time-period accordingly. If that 2008 order was not conveyed and it was only the later order dated 30.10.2010 sent to the petitioner, in that eventuality, he will be required to explain the delay from Ist November, 2010 till he filed the Original Application.

[9]. We thus do not express any views whether the petitioner has made out a case for condonation of delay or not. But the fact remains that the reasons assigned by the Tribunal to dislodge the petitioner's claim as time-barred are contrary to the record.

[10]. Consequently, the writ petition is allowed; the order dated 16.12.2012 passed by the Tribunal is set aside and the matter is remitted to the Tribunal for fresh adjudication on the question of limitation in the light of the observations made hereinabove.

[11]. If the petitioner makes out a case for condonation of delay, it is obvious that the learned Tribunal shall decide his Original Application on merits as well.

[12]. The parties are directed to appear before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh on 12.02.2015.

(SURYA KANT)
JUDGE

20.01.2015
Atik

(RAJ MOHAN SINGH)
JUDGE