

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
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LPA No. 1417 of 2015 (O&M)
Date of Decision: 14.12.2015

Kesar Dass and another

---Appellants

versus

State of Punjab and others

---Respondents

Coram: Hon'ble Mr. Justice Rajive Bhalla
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. A.K.Kalsy, Advocate and
Mr. Abhimanyu Kalsy, Advocate
for the appellants

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

Rajive Bhalla, J.

C.M.No. 3034-LPA of 2015

Prayer in this application is to condone delay of 30 days in filing the appeal.

Heard.

For reasons stated in the application and arguments addressed, the application is allowed and delay of 30 days in filing the appeal is condoned.

C.M.No. 3035-LPA of 2015

Prayer in this application is to condone delay of 45 days in

re-filing the appeal.

Heard.

For reasons stated in the application and arguments addressed, the application is allowed and delay of 45 days in re-filing the appeal is condoned.

LPA No. 1417 of 2015

The appellants challenge order dated 27.3.2015 dismissing the writ petition for gross delay and laches.

Counsel for the appellants submits that the appellants are entitled to pay and allowances for having officiated against higher posts but the writ petition has been dismissed on the ground of laches without considering that the appellants' claim is based upon government instructions which, in turn, are based upon a decision of the Hon'ble Supreme Court in SLP No. 36467 of 2011. Counsel for the appellants further submits that admittedly the appellants have worked in an officiating capacity against a higher post. The respondents are, therefore, duty bound to grant pay and allowances for period the appellants worked against a higher post.

We have heard counsel for the appellants, perused averments in the appeal as well in the writ petition and upon due consideration of the impugned order, are not inclined to grant any relief to the appellants. The appellants may have officiated against a higher post but government instructions were issued after the appellants admittedly retired in the years 2007 and 2008. The instructions are prospective in nature and as

the writ petition was filed after a delay of 6-7 years after retirement and 4 years after issuance of instructions, the writ petition has been rightly dismissed for delay and laches.

Consequently, finding no merit, the appeal is dismissed.

(Rajive Bhalla)
Judge

(Rekha Mittal)
Judge

14.12.2015
PARAMJIT