

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA No.2149 of 2014 (O&M)
Date of Decision: 19.03.2015**

Muni Lal

.....Appellant

Vs.

Municipal Corporation U.T.Chandigarh and Ors.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B.BAJANTHRI**

Present:- Ms.Sakshi, Advocate for the appellant.

**Mr.Deepak Sharma, Advocate
for respondents No.1 to 4.**

SURYA KANT, J. (ORAL)

CM No.4501-LPA of 2014

Prayer in this application is for condonation of delay of 7 days in filing the accompanying appeal.

It is averred that delay has occurred due to bonafide mistake. In the absence of any opposition to the prayer made in this application which is duly supported with an affidavit, the same is allowed. Delay in filing the appeal is condoned.

Application stands disposed of.

Main Appeal

With the consent of learned counsel for the parties,

the main appeal is taken up for final disposal.

This Latters Petent Appeal assails the order dated 16.07.2014 whereby Learned Single Judge has dismissed the appellant's writ petition in limine observing that there was no material on record to suggest that he obtained 'medical leave' for the period he remained under treatment. The relief which the appellant sought in the writ petition was to direct the Municipal Corporation, Chandigarh to allow him to resume his duties as a Mason.

The appellant's case is that he is working as Mason on regular basis since the year 1998 and he was promoted from Mason Grade-III to Mason Grade-II in the year 1995. The appellant allegedly met with an accident on 23.12.2010 in which his leg got fractured. While he was recovering from the aforesaid injury, he is said to have suffered another serious ailment due to which eyesight of his both the eyes was effected. He immediately got treatment firstly from Government Hospital and then remained admitted in PGIMS, Chandigarh. After recovering from the multiple health problems, he wanted to resume his duties w.e.f. 16.01.2014 but he was not permitted to do so. Hence the writ petition.

Upon notice issued in this appeal, it is pointed out by learned counsel for Municipal Corporation that it is a case of willful absence from duty, as the appellant has failed to produce medical record to support his absence from duty for

the entire period.

We have considered the rival submissions and are of the view that after reinstating the appellant in service, the respondent-Authorities would be well within their right to proceed against him in accordance with law, with reference to the allegation of his willful absence from duty. The instant appeal is accordingly allowed and the order passed by learned Single Judge is set aside and the appellant's writ petition is allowed in part to the extent that if the appellant was working as a regular Mason, he may be permitted to join his duties. However, the respondent-Authority shall be at liberty to take action against the appellant in accordance with rules for the alleged misconduct of absence from duty. The payment of wages for the period the appellant remained absent from duty shall depend upon the outcome of inquiry.

The appeal is allowed in the above terms.

(SURYA KANT)
JUDGE

(P.B.BAJANTHRI)
JUDGE

19.03.2015
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