

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

R.S.A. No. 709 of 2013 (O&M)

Date of decision : 26.05.2015

Subhash Chander

...Appellant

versus

Haryana State & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jai Vir Yadav, Advocate
for the appellant.

RITU BAHRI , J.

C.M. No. 1892-C of 2013

For the reasons mentioned in the application, delay of 258 days in filing the present appeal is condoned.

The application stands disposed of accordingly.

R.S.A. No. 709 of 2013

Plaintiff-appellant (herein after to referred as 'the appellant') has come up in Regular Second Appeal against the judgment and decree dated 16.12.2011 whereby the judgment and decree of the learned trial Court dated 23.04.2009 was upheld vide which the suit of the appellant was partly decreed to the effect that he is entitled to be treated in continuous service but he was not given the back wages.

Counsel for the appellant inter alia contends that the suit of the plaintiff against the order of discharge was decreed by making reference to Rule 19.5 (1) of the Punjab Police Rules, 1934 which requires that a constable is to be kept under supervision and a report on the interval of six months is to be made by the Sub Inspector or the Inspector under whom he was working. In the absence of any report as per 19.5 (1), order of discharge was set aside. However, the plaintiff had been denied back wages. The State did not come up in appeal against the judgment of the trial Court. However, the appeal filed by the plaintiff for back wages was dismissed as being time barred, as there was delay of 832 days in filing the appeal. In para 9 of the Lower Appellate Court judgment, it was held that the plea taken by the appellant that he was not having sufficient means to file the appeal and the delay was neither willful nor intentional but due to financial hardship, as there was no source of income to the appellant except service of the appellant, was no ground for condonation of delay since no explanation is on the file to support his plea. The law of limitation cannot be put to rest because appellant was having sufficient means to file appeal.

After the judgment passed by the trial court, the appellant has been reinstated in service and thereafter, the lower Appellate Court has dismissed the appeal on the ground of limitation rightly.

After being reinstated in service, the appellant could not take a plea that he did not have the income to file the appeal in time.

Since the appellant had been reinstated in service no ground is made out to interfere in the judgment passed by both the Courts below as no substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

(RITU BAHRI)
JUDGE

26.05.2015

G Arora