

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

**C.M. Nos.984-85 of 2013 in/and
R.A. No.22 of 2013 in
C.W.P. No.18164 of 2009
Date of Decision : 12.03.2015**

Tara Chand

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Gagandeep Singh Wasu, Addl.A.G., Haryana
for the applicants-respondents.

None for the non-applicant-petitioner.

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?

AJAY TEWARI, J. (Oral)

This review petition has been filed against the order dated 19.08.2010 passed in the aforesaid writ petition and there is a delay of 621 days.

On the last date the following order was passed:-

“Learned counsel for the non-applicant/petitioner states that he has no instructions in the matter.

Accordingly, let actual date notices, returnable for 12.03.2015 be issued for effecting service upon the petitioner/non-applicant.”

Thereafter, the notice issued to the petitioner has been received back served. Consequently, the petitioner is proceeded against ex-parte.

The brief facts are that the non-applicant-petitioner retired from service on 31.08.2007 and then represented that the service he had rendered in the Aided College should be counted for pension. He ultimately filed the instant writ petition and it is now averred that on the basis of an entirely incorrect concession (which was contrary to the rules) he became entitled to relief of which he was otherwise not entitled and the writ petition was decided on 19.08.2010. The reason given for the condonation of huge delay of 621 days is that originally it was decided to file LPA and while that was being processed the non-applicant-petitioner filed a contempt petition and it was only when the reply to the contempt petition was being prepared that it was discovered that the case had proceeded on an erroneous basis and it was decided to file the instant review application.

The issue before this Court is whether the benefit which was granted to the petitioner on the basis of a wrong concession made by the State should be permitted to be withdrawn. In law the prayer seems unexceptionable, but when it is viewed against the factual back-drop that the petitioner was a retiree of the year 2007; the concession was made in the year 2010 and that it is sought to be reviewed after 621 days; the logic of the argument has to take a back seat. Had it been a case where the State had been vigilant and filed prompt application after realizing its mistake it may have been different but now to unsettle the position of a man who has retired almost 8 years ago does not seem reasonable, especially when no reason is mentioned as to why this factual mistake was not pointed out or

not noticed earlier. Further the argument of the learned Additional Advocate General that the order would open floodgates is also not correct, because it is trite to say that a judgment or order which is not passed on merit can never be taken as a precedent.

In the circumstances, the application for condonation of delay is declined and the review petition is dismissed being barred by limitation.

March 12, 2015

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**(AJAY TEWARI)
JUDGE**