

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 20775 of 2016
Date of decision: 04.10.2016

Sikander Singh

....Petitioner(s)

Versus

State Transport Commissioner, Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Rajinder Sharma, Advocate,
and Mr. Raj Kaushik, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present order shall dispose of four writ petitions i.e. CWP Nos. 20775, 20816, 20825 and 20830 of 2016, as common questions of facts and law are involved in all the writ petitions. For reference, ***CWP No. 20775 of 2016, Sikandar Singh vs. State Transport Commissioner, Punjab and others*** is being taken up.

The petitioner challenges the order dated 28.11.2014 (Annexure P-3) passed by respondent no. 2-Tribunal. The appeal before the Tribunal has been dismissed on the ground that there was a delay of near 9 years in filing the appeal against the order dated 07.11.2003 (Annexure P-1) passed by the State Transport Commissioner-respondent no. 1. Respondent no. 1 had granted one regular stage carriage permit to respondent no. 3 for plying one return trip daily vide order dated 07.11.2003. The petitioner never challenged the said order till the year 2013 when he filed the appeal on 02.01.2013. The ground taken was that the appeal was within limitation as the same had not been communicated and, therefore, there was no such

delay. The Tribunal has, by placing reliance upon the Full Bench judgment of this Court in ***Jagtar Singh vs. The State Transport Appellate Tribunal and others, 2009 (2) PLR 245***, rejected the plea that there was constructive knowledge. The Full Bench had, thus, held that a party who knows about the making of an order cannot ignore the same and allow grass to grow under its feet and do nothing except waiting for a formal communication of the order. Allowing a party to do so would amount to placing a premium on the lack of diligence of a party, who is remiss in seeking a remedy that was available to it. The relevant portion reads as under:-

“The question that adds an interesting dimension is whether a party, who knows about the order of rejection made by the State or Regional Transport Authority, can sit back and indefinitely wait for a formal communication of the order and file the appeal at his sweet will. Our answer to that question is in the negative. While it is true that communication of the reasons would imply communication of a copy of the written order itself, a party who knows about the making of an order cannot ignore the same and allow grass to grow under its feet and do nothing except waiting for a formal communication of the order or to choose a time of his convenience to file an appeal on a tenuous plea that even though he knew about the order, he was waiting for its formal communication to seek redress against the same in appeal. Any interpretation of the provisions of Section 80 and 89 of the Act and Rule 85 of the Rules that would give rise to such an absurdity shall have to be eschewed. Diligence or the lack of it in seeking redress is a crucial aspect in matters relating to law of limitation. One can understand that if a party does not know about the

making of the order either actually or constructively it may claim that the period of limitation would start running from the date it acquires knowledge of the making of an order but one cannot understand how a party, who has acquired knowledge of the making an order either directly or constructively can ignore the same and belatedly seek redress just because the authority making the order had made a default in formally communicating the order to him. Allowing a party to do so would amount to placing a premium on the lack of diligence of a party, who is remiss in seeking a remedy that was available to it.”

The above said observations, thus, leave no doubt that the petitioner is not entitled for any relief keeping in view that the delay was of more than 9 years.

The present writ petition also is likely to be dismissed on the ground of delay and laches. The impugned order is dated 28.11.2014 which has now been challenged after a period of almost two years. The writ court is a court of equity and it is settled principle that where the party is not as such vigilant for its own rights, this Court will not interfere. The settled principle is that law is for the vigilant and not for those who sleep over their rights which is, thus, to be kept into consideration while deciding the present case. As noticed, the appeal was filed after 9 years before the Tribunal and this Court has been approached almost after 2 years from the decision of the Tribunal.

In the connected cases, the appeals were filed after 20-24 years and the writ petitions have been filed after 3 to 7 years' delay.

In such circumstances, this Court does not feel that there is any infirmity in the order of the Tribunal, which is liable to be interfered under

the discretionary exercise of Article 226 of the Constitution of India.
Accordingly, the present writ petitions are dismissed in limine.

04.10.2016 shivani	(G.S. SANDHAWALIA) JUDGE
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Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No