

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

**C.M.Nos.3566-LPA of 2015 and
L.P.A.No.1668 of 2015 (O&M)
Date of Order: 29.01.2016**

Life Insurance Corporation of India

..Appellant

Versus

Nirmal Kapoor

..Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE LISA GILL**

**Present: Mr. PRATEEK MAHAJAN, Advocate,
for the appellant.**

RAJIVE BHALLA, J (Oral)

C.M.No.3566-LPA of 2015

Prayer in this application is to condone delay of 50 days
in filing the appeal.

We have heard counsel for the appellant and as sufficient
cause has been shown, allow the application and condone delay of
50 days in filing the appeal.

L.P.A.No.1668 of 2015

The appellant is before us, challenging the order, allowing
the writ petition, filed by respondent no.1, a physically challenged
employee.

Counsel for the appellant submits that as respondent no.1
filed a suit, which was dismissed, the first appellate Court had no

jurisdiction to allow withdrawal of the suit, thus enabling respondent no.1 to file a writ petition. Counsel for the appellant, in support of his argument, relies upon judgments in Jubedan Begum and others v. Sekhewat Ali Khan, 1984 (2) ILR (Punjab, 371, Gurnek Singh and another v. Gurbachan Singh and others, 1986(1) PLR 309, Gian Chand v. Pavitar Singh, 1993 (3) RRR, 370 and R.Rathinavel Chettiar v. V.Sivaraman, 1999(2) RCR(Civil), 447. Counsel for the appellant also submits that as the cause of action accrued in the year 2004, the writ petition should have been dismissed for gross delay and laches or respondent no.1's claim should have been confined to a period of three years preceding the passing of the impugned order.

We have heard counsel for the appellant, perused the impugned order and upon due consideration of the facts are surprised that the Life Insurance Corporation of India has filed a frivolous appeal against a physically challenged employee, whose rights are covered and governed by Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as 'the Act').

Admittedly, respondent no.1 is physically challenged and is unable to perform his duties. The learned Single Judge has rightly held that respondent no.1 is entitled to the benefit of Section 47 of the Act and has passed consequential orders.

The argument that the civil suit could not have been dismissed in appeal, is misconceived. Admittedly, the civil suit was dismissed as withdrawn with the consent of counsel for the appellant.

This apart, the order allowing withdrawal of the suit was never

challenged by the appellant. The judgments relied by the appellant are, therefore, inapplicable.

The second argument that the claim should have been confined to a period of three years, before the passing of the impugned order, cannot be accepted, as respondent no.1 had been agitating his claim before one forum or the other since he became physically challenged but was opposed by the appellant for reasons that we may say are at best petty.

Consequently, finding no merit, the appeal is dismissed.

(RAJIVE BHALLA)
JUDGE

January 29, 2016
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(LISA GILL)
JUDGE