

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

**Civil Revision No.6263 of 2017
Date of Decision: 20.12.2017**

Vijay Singh

....Petitioner

V/S

State of Haryana and Others

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. M.S. Kathuria, Advocate,
for the petitioner.

RITU BAHRI, J.(Oral)

The present Civil Revision petition has been filed against the order dated 10.08.2017 passed by Additional District and Sessions, Judge, Hisar vide which the application under Section 5 of the Limitation Act for condonation of delay filed by the respondents has been allowed.

Brief facts of the case in hand are that the present petitioner filed a suit for delcaration challenging the impugned notice-cum order dated 19.06.2013 vide which the plaintiff was ordered for compulsory retirement and the Ld. Trial Court vide judgement dated 09.09.2016 decreed the suit filed by the plaintiff-Vijay Singh. Thereafter, respondents-defendants department filed an appeal alongwith an application under Section 5 of the Limitation Act for condonation of delay of 163 days in filing the appeal dated 19/21.03.2017.

A perusal of the order shows that, District Attorney vide office endorsement dated 16.09.2016 has opined that it is a fit case for filing the appeal and LR Haryana vide office memo No.37867 CO.11(512) 2013 dated

3.10.2016 opined that it is not a fit case for filing appeal. After the matter was sent to the Director General of the Police Haryana for necessary guidelines and Director General of Police Haryana issued direction to file an appeal against the impugned judgment and decree dated 09.09.2016 vide his memo dated 16.02.2017 and thereafter, the present appeal was prepared. Due to official process of delay of 163 days has occurred in filing the present appeal. Learned GP for the appellant submitted that the delay in filing the appeal is not intentional but due to unavoidable circumstances and put reliance upon the Judgment of Supreme court in case titled as **Imratlal and others versus Land Acquisition Collector and others Civil Appeal NO. 10799 of 2013 SLP (C) No. 30435 of 2011** where Hon'ble Court has condoned the delay of 1110 days by adopting a liberal approach and Learned GP also put reliance upon the judgment of this court in the case of **Jethu ram (since deceased) through Lrs versus Union of India and others RFA No. 3624 of 2016 (O&M).**

In the present case, learned counsel for the petitioner has *inter alia*, put reliance upon the judgment of Hon'ble Supreme Court in case titled as **Basawaraj and another versus the Spl. Land Acquisition Officer 2013 (14) SCC 811,** where it has specifically held that the court has no power to extend the period of limitation on equitable grounds if the case does not fall within the parameters explained in this referred case.

After gone through the case file carefully, it is clearly mentioned that, the delay occurrence in filing the appeal is not intentional but due to official process. A perusal of the order further shows that reference given by the Learned Counsel for the petitioner is not applicable to the facts of the present case. Further, going through the judgment passed

by the Hon'ble Supreme Court in the case of **Imrat lal and others versus Land Acquisition Collector and others Civil Apeal NO. 10799 of 2013 SLP (C) No. 30435 of 2011** where Hon'ble Supreme Court has condoned the delay of 1110 days by adopting a liberal approach.

Hence, the application for condonation of delay in filing the appeal is acceptable and due to procedural process and no ground is made to interfere the findings of the lower court.

Hence, the present petition stands dismissed.

December 20th, 2017
Riya

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No