IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.9888 of 2017.
Date of Decision: May 09, 2017

Parveen Kumar and another ......Petitioners

versus

Union of India and others .....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.
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Present: Mr.Inderjit Kaushal, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The petitioners are working as Inspectors in Income Tax Department and are presently posted at Sangrur and Patiala, respectively, in the State of Punjab. The Central Administrative Tribunal, Chandigarh Bench has dismissed their Original Application being barred by limitation. Their application for condonation of delay of 712 days has also been rejected.

[2] The facts are broadly admitted. The petitioners in their Original Application challenged the orders dated 14.02.2012 and 14/19.03.2013. Vide the first order, the petitioners' claim for promotion as Office Superintendents as a result of restructuring in the department was turned down and vide the second order, the claim put-forth by them through a legal notice was rejected.

[3] The Original Application was admittedly filed on 28.02.2016. Having realized that their claim was barred under Section 19 of the Administrative Tribunal Act, 1985, the petitioners moved an application under Section 21(3) of the 1985 Act for condonation of delay of 712 days in filing the Original Application. In the said application, the petitioners made

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the following averments:-

> "...4. *That the applicants in order to challenge the above said impugned orders (Annexure A-19 and Annexure A-23) handed over the relevant papers to the earlier counsel engaged in the month of June/July, 2013 for filing the Original Application in the second round of litigation and also paid the full Counsel fee and signed the relevant papers and Power of Attorney as well.*
>
> *5. That the earlier counsel engaged by the applicants gave an impression to the applicants that their case would be filed at the suitable time as the similar controversy related to their department in the case titled as "Rajnish Jain" was pending consideration before this Hon'ble Tribunal. The earlier counsel also advised the applicants that it would be easier to get the same relief in the case of the applicants once the case of Rajnish Jain was decided.*
>
> *6. That the applicants on various occasions enquired from earlier counsel for filing of case but the similar reply was given to await the decision in the case of "Rajnish Jain" case......."*

[4] It was further averred that on repeated queries, the earlier counsel sent the draft Original Application to petitioner No.1 on e-mail address on 25.06.2015. Thereafter, the petitioners after having some correspondence with their earlier counsel, decided and engage a new counsel on or after 05.1.2016. Thereafter, some tragedy occurred as brother of 1st petitioner suffered a massive heart attack and unfortunately passed away. The wife of his another brother also suffered brain stroke and went into Coma. Due to his family responsibilities, the 1st petitioner allegedly could not contact the counsel and could not get the Original Application filed within the prescribed period of limitation.

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[5] The Tribunal has vide the impugned order declined to accept the reasons maintaining that the petitiones have not been able to explain the period during which they apparently slept over the matter w.e.f. 14.02.2012 till 29.02.2016. The Tribunal has cited case law laying down that the law of limitation and related principles are equally applicable in the matters to be filed before the Tribunal.

[6] We have heard learned counsel for the petitioners who has reiterated those very grounds which were taken before the Tribunal.

[7] It is a fact that the Original Application could be filed on or before 19.03.2014 but it was actually filed on 29.02.2016. The averments made by them do suggest that the petitioners engaged a counsel in June, 2015 only when draft Original Application was sent on e-mail address of petitioner No.1. Even thereafter, the petitioners have not been able to disclose satisfactory as to what prevented them from getting the draft Original Application finalized and filed at the earliest. It is pertinent to mention that by the time the Original Application was drafted, the limitation period had already expired. It was thus obligatory upon the petitioners to explain each day's delay.

[8] The petitioners are not the persons suffering with any social or financial disability. They are holding responsible posts of Inspectors in the Income Tax Department. They have vast service experience to their credit. In such circumstances where the petitioners themselves are responsible for allowing the grass to grow under their feet, the Tribunal has rightly declined to condone the unexplained and inordinate delay of almost two years.

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No case to interfere with the order under under challenge is made out.

Dismissed.

[SURYA KANT]
JUDGE

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[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	**:**	**Yes/No**
Whether Reportable	**:**	**Yes/No**

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CM No.6944 of 2017 in
CWP No.9888 of 2017

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Parveen Kumar and another vs. Union of India and others

Present : Mr.Inderjit Kaushal, Advocate,
for the applicant-petitioners.

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For the reasons mentioned in the application, the same is allowed subject to all just exceptions and the documents (P-4 to P-9) are taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

May 09, 2017 **(SUDIP AHLUWALIA)**
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