

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

LPA No.2018 of 2016 (O&M)

Date of Decision :10.8.2017

The Senior Medical Officer and others

....Appellants

Versus

Ram Sewak and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

....

Present: Mr.Manoj Bajaj, Addl.Advocate General, Punjab
for the appellants.

....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 28.04.2015 but filed after an inordinate delay of 446 days. The reasons for delay have been given in paras 2 to 5 of the application under Section 5 of the Limitation Act which we consider appropriate to extract herebelow :-

“2. That the C.W.P.No.21234 of 2014 was decided by this Hon'ble High Court on 28.04.2015. Thereafter, the certified copy of the judgment was sent by the Superintendent (WRITS) under the seal of the Court on 08.05.2015 vide No.29 dated 16.06.2015 and the certified copy was received in the office of the appellant in the third week of the June, 2015.

3. That thereafter the case was forwarded to the higher authorities at Chandigarh for further course of action in the matter and for seeking directions/instructions and for opinion of the Office of the Advocate General, Punjab, Chandigarh and the A.G. office vide letter No.16257 dated 02.07.2015 supplied the opinion whereby it has been opined that the case is fit for filing the appeal.
4. That after receiving the opinion from the Office of the Advocate General, Punjab, Chandigarh, the appellant Department had applied for necessary approval for filing of the LPA and the same was received vide letter No.CC (3)-Pb.2015/8333 dated 23.10.2015. Thereafter the case was again dealt with in the office of the competent authorities at Chandigarh and the matter was again sent to the O/o Advocate General, Punjab for further opinion and the matter was again sent to the Law Officer of the Department.
5. That thereafter, the official of the applicant/appellants visited in the office of the Advocate General, Punjab, Chandigarh and official of the Advocate General, Punjab, advised the official of the appellant to get drafted the grounds of the LPA etc. Thereafter, the applicant/appellants got drafted the grounds of the appeal and got vetted the same on 21.08.2016 from the office of the Advocate General, Punjab. This, now the same is being filed before this Hon'ble Court.”

On 25.04.2017, when this Court being dissatisfied

with the aforesaid explanation intended not to interfere, the appellants made a prayer to file a better affidavit indicating the reasons for delay, which has since been done by way of a detailed affidavit accompanying C.M.No.3078-LPA of 2017 which is being extracted herebelow :-

- “4. That the above noted Civil Writ Petition no.21234 of 2014 was decided by this Hon'ble High Court vide order dated 28.4.2015. The copy of the judgment/order dated 28.4.2015 was received in the office of the deponent on 16.6.2015 against Diary No.29. Thereafter, the case was considered by the office of the Advocate General, Punjab and rendered their opinion vide letter dated 2.7.2015 whereby it has been opined that the case is fit for filing the appeal.
5. That after receiving the opinion of the Advocate General, Punjab, Chandigarh, the office of the deponent had written to the Director of the Health Department to obtain necessary sanction for filing the present appeal and the Director vide his letter dated 23.8.2015 wrote to the Secretary, litigation for granting necessary sanction for filing the appeal. Thus, in pursuance of the letter dated 23.8.2015, the Govt. has granted necessary sanction vide letter dated 5.11.2015 which has been received in the office of the Director, Health on 9.11.2015 and thereafter, sent by the Director Health to the office of the deponent.
6. That after receiving the necessary sanction, the office of

the deponent got drafted the grounds of appeal alongwith applications and affidavits for filing the appeal, which is produced in the office of the Advocate General, Punjab Chandigarh on 30.11.2015 for vetting purpose. On that very date, the office of the Advocate General, Punjab, Chandigarh raised certain objections/comments which were necessary to be rectified. In the meantime, the dealing clerk was transferred vide letter dated 17.12.2016 and thereafter, the dealing clerk remained on leave for some days. Due to the transfer of the dealing clerk, the same seat remained vacant till 4.7.2016 and the same clerk/dealing hand has again joined the same post on 4.7.2016. After re-joining the clerk, the case was again processed and got rectify the objections/comments raised by the office of the Advocate General, Punjab, Chandigarh and resubmitted the case for vetting purpose which which has been got vetted on 21.8.2016 and immediately after vetting the case, filed the same without any further delay.”

The aforesaid detailed events would reveal that the impugned judgment was rendered on 28.04.2015 and the appellant department received the certified copy of the same on 16.06.2015. Thereafter, the office of Advocate General, Punjab opined vide its letter dated 02.07.2015 that the case is fit for filing the appeal. Then the department wrote to the Director of the Health Department for obtaining sanction and the Director

further wrote to the Secretary, Litigation for grant of sanction for filing the appeal and ultimately the Govt. granted sanction on 05.11.2015 in this regard. The appellants got drafted the grounds of appeal alongwith applications and affidavits and produced the same in the office of the Advocate General, Punjab on 30.11.2015 for the purpose of vetting. The office of Advocate General raised certain objections on 30.11.2015 itself and the department then fell into a slumber and resubmitted the case to the office of Advocate General for the purpose of vetting on 21.08.2016, that is after more than one year and filed the present appeal on 23.08.2016. Evidently, the file has meandered through various channels without there being any hint of urgency or even offering an insight of the officers awareness of the Limitation Act. We cannot shut our eyes to such callousness and treat the State or its functionaries differently than a common litigant while dealing with matters of limitation to grant indulgence by overlooking such procedural delays and we would not be unjustified to expect some alertness at the hands of the State as a litigant wishing to approach this Court in no matter what proceedings.

The Hon'ble Supreme Court also in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.* **2012(2)S.C.T.269** has observed as under :

“13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that

unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.

We thus find no reason to condone such an inordinately long delay which has not been explained satisfactorily.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

10.08.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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