

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

LPA No.2235 of 2016 (O&M)

Date of Decision :13.02.2017

The Punjab State Civil Supplies Corporation
Ltd. and another

....Appellants

Versus

Madan Singh and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Ms.Deepali Puri, Advocate
for the appellants.

....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 08.12.2015 but filed after an inordinate delay of 295 days. The reasons for delay have been given in paras 3 to 5 of the application under Section 5 of the Limitation Act which we consider appropriate to extract herebelow :-

“3. That the copy of the judgment was received from the Hon'ble High Court in the office of the Managing Director, PUNSUP, Chandigarh on 18.1.2016. Thereafter the same was sent to the Competent Authority i.e. the DGM(Legal) on

10.2.2016 who sent the case for obtaining legal opinion in this regard.

4. That after obtaining the legal opinion in this matter on 21.2.2016 the file was returned to the department on 15.3.2016.
5. That the case was put up before the competent authority who opined to take another legal opinion which was taken on 4.5.2016. However, the final legal opinion was rendered on 3.8.2016 and thereafter it was decided to file the present appeal. Thus the delay in filing the appeal is due to the Administrative hurdles.”

The aforesaid would reveal that after the judgment was rendered on 08.12.2015, the copy was received by the Director, PUNSUP, Chandigarh on 18.01.2016. Even though this ought not to be considered to be a starting point for consideration for condoning the delay, for the reason that all the judgments are uploaded instantaneously but yet bending the equity in favour of the appellants we take the starting point as 18.01.2016. Thereafter the explanation goes to show that the DGM (Legal) received it on 10.02.2016 who sent the file for legal opinion which was received on 21.02.2016 and the file was returned on 15.03.2016, whereupon the appellants embarked upon to solicit another legal

opinion which was taken on 04.05.2016 but the 'final legal opinion' was rendered on 03.08.2016 and the appeal filed thereafter.

All this goes to show complete apathy to the legal process as the file has shuffled lazily from one authority to another for obtaining legal opinion.

We cannot shut our eyes to such callousness to treat the State or its functionaries indifferently than a common litigant while dealing with matters of limitation.

We would not insist on hyper technical approach but certainly would expect some alertness at the hands of a litigant who wishes to approach this Court in no matter what proceedings.

We are also constrained to observe that there is absolutely no justification manifesting itself from the contents of the application in the necessity of seeking repeated legal opinions. The application also indicates a separate branch existing within the Corporation to deal with the legal matters and as informed is manned by a person with legal background. This makes it harder for us to accept the explanation for condoning the delay.

The Hon'ble Supreme Court 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. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

Keeping in view the aforesaid, we are of the view that

the explanation for delay offered by the appellants is not worth acceptance.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

13.02.2017
dss

(SHEKHER DHAWAN)
JUDGE

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