

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

LPA No.1587 of 2017 (O&M)

Date of Decision : 30.08.2017

Raj Kumar Sharma

....Appellant

Versus

Punjab State Civil Supplies Corporation
Limited and others

....Respondents

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

Present: Mr.Namit Kumar, Advocate
for the appellant.

...

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 11.07.2016 as also the order dated 01.08.2017 declining interference in the review application preferred by the appellant.

The appeal is accompanied by an application under Section 5 of the Limitation Act explaining delay of 356 days by attributing it to the time consumed in filing the review application. Since the review application was also filed beyond limitation but condoned resulting in one of the impugned orders dated 01.08.2017, we would considering the aspects in their totality condone the delay in filing the appeal.

We have heard the learned counsel for the appellant.

We may notice the facts in brief. The appellant was working with the Punjab State Civil Supplies Corporation Limited

(hereinafter known as 'PUNSUP') as a Field Officer and superannuated on 28.02.2001. A process charge-sheeting him for the loss caused to the PUNSUP to the tune of Rs.11,15,655/- stood initiated against him as also some other employees. Finally, the order was passed after six years of his retirement i.e. on 28.03.2007 imposing a recovery of Rs.2,23,131/- as a proportionate share attributable to the appellant. Some amount of gratuity was withheld while the remaining released for which the appellant made a prayer before the Controlling Authority which was accepted on the ground that on the date of his retirement no order of punishment was in existence. In so far as the order of punishment imposing a recovery of Rs.2,23,131/- was concerned, the appellant made a request on 04.05.2007 seeking extension of time to file an appeal. This application though not on record of the writ proceedings was subsequently produced before the learned Single Judge in the review petition.

For some strange reasons this prayer of the appellant was dug out by the Corporation in its proceedings on 23.06.2015 enabling the appellant to file a fresh appeal. The word 'fresh' used is a misnomer as no appeal had actually been preferred by the appellant and, therefore, we are constrained to observe that how could the process be bent by the official respondents to such an extent to condone an extraordinary delay of 8 years. The appellant who was confronted with an adverse order in the year 2007 itself was alive to it. There can be absolutely no justifiable explanation as to why the

appeal was not filed by him to impugn the said order. The learned Single Judge was thus right in answering the petition when the PUNSUP itself challenged the order of the Controlling and Appellate Authority where a prayer for release of gratuity alone had been made. These authorities absolutely could not sit in appeal against the order ordering a recovery of Rs.2,23,131/-, particularly when no such challenge was mounted by the appellant to it.

We are also of the opinion that these authorities have lent an unusually benevolent helping hand to the appellant in granting him the permission to file an appeal after 8 years. The appellant had made much of the pendency of the appeal which has been filed pursuant to the liberty granted on 23.06.2015. We are of the opinion that such a permission could not have been granted by the Chairman in the first place. We also intend to issue notice to the Chairman of the PUNSUP explaining his conduct. Since the appellant failed to even challenge the basic order adverse to him, we see no reason to interfere in the judgment of the learned Single Judge who had declined interference similarly.

Appeal dismissed.

List for the explanation of the Chairman of PUNSUP on 20.12.2017.

(MAHESH GROVER)
JUDGE

30.08.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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