

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

LPA No.2036 of 2017 (O&M)

Date of Decision : 26.10.2017

The General Manager (Mining) District
Centre, Department of Industries (Punjab)

....Appellant

Versus

Shri Balbir Chand and another

...Respondents

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

Present : Mr.P.P.S.Thethi, Addl.Advocate General,
Punjab.

.....

MAHESH GROVER, J. (Oral)

In this appeal filed by the General Manager (Mining),
District Industries Centre, Department of Industries (Punjab)
against the judgment of the learned Single Judge dated
09.09.2014 there is a delay of 1020 days, the explanation for
which has been given in the application and attributed to
procedures as is evident from the following extract :-

“4. That applicantoffice vide letter No.9961 dated
15.09.2014 while intimating about the dismissal of CWP
No.18563 of 2014, on 09.09.2014 by the Hon'ble Court
requested the Director of Industries & Commerce,
Punjab, Chandigarh to advise in the matter but further
course of action is required to be taken by the

applicant/office. The Director of Industries & Commerce, Punjab, Chandigarh was again requested vide letter No.12033 dated 26.9.2014, No.142010 dated 7.10.2014 and No.14490 dated 04.11.2014 to advise the deponent office in the matter so that further action in this regard is taken.

5. That the Director of Industries & Commerce, Punjab, Chandigarh vide letter No.CLG/G-3/Court Case/1800/8780 dated 11.11.2014 while supplying copy of the order dated 09.09.2014 passed by this Hon'ble Court requested the Advocate General Punjab that but further course of action will be taken in respect of the order dated 09.09.2014 passed by this Hon'ble Court. The applicant office again requested the Director of Industries & Commerce, Punjab, Chandigarh vide letter No.16232 dated 12.01.2014 and No.233 dated 12.01.2015, as already requested by the applicant office.

6. That the Ld. Advocate General Punjab, Chandigarh advised the office of the applicant vide letter No.A-7, 3864/2014/2138 dated 16/23.01.2015, that the department is of the view that it is a fit case for filing the LPA and further requested the department to further convey final decision qua availing further remedy.

7. That the Govt. of Punjab, Department of

Industries and Commerce, Punjab accorded to approval for filing LPA in this Hon'ble Court against the order dated 09.09.2014 of the Single Judge and issued necessary instructions to the Advocate General Punjab for filing of LPA. Further the Director of Industries & Commerce, Punjab, Chandigarh vide letter No.2810-B, dated 02.03.2015 and No.3210-D dated 19.03.2015 directed the applicant office to intimate regarding filing of LPA in this Hon'ble Court. The applicant office prepared the Draft of LPA and sent to the Director of Industries & Commerce, Punjab, Chandigarh for approval, vide letter No.1843 dated 30.04.2015 and the Director of Industries & Commerce, Punjab, Chandigarh vide letter No.3965-B, dated 05.05.2015 pointed out the some deficiencies in the draft of LPA and after doing the needful, the Head Officer was again requested vide letter No.8120 dated 16.07.2015, No.3626 dated 05.08.2015, No.3958 dated 25.08.2015 to expedite the approval of draft LPA so that further action in the matter is taken.

8. That the certified copy of the judgment was received on 14.10.2014. The Advocate General, Punjab Chandigarh sent opinion to the deponent on 13.2.2015. The Competent Authority accorded necessary sanction for filing of LPA on 2.3.2015. The deponent sent the LPA

draft for approval to the Deptt. on 20.4.2015. The Director of Industries & Commerce, Punjab, Chandigarh vide letter No.8636-B dated 16.09.2015 accorded approval of the draft LPA and directed to file the same in the Hon'ble High Court after getting its vetted for Ld.Advocate General, Punjab. The deponent sent the approved LPA draft for further vetting to A.G.Punjab on 18.1.2016, after fulfilling and completing the various objection/observations made by the o/o A.G.Punjab from time to time, the draft of LPA was submitted to Ld.A.G. Punjab, vide letter dated 28.4.2016 for its vetting and approval and the same was approved and sent to the office on 12037. The LPA was filed in the Registry of this Hon'ble Court on 18.8.17. However, in the meantime a delay of 1020 days has been occurred in filing the LPA.”

We are of the opinion that such an inordinate delay in filing the appeal is sans any justification. The explanation offered does not satisfy the judicious conscious to persuade us to intervene particularly in view of the controversy where a workman who had rendered service of almost 12 years was shown the door unceremoniously resulting in an award by the Labour Court and upheld by the writ court in his favour.

In the matters of delay the State and its functionaries

when equipped with sufficient human resources with legal

acumen cannot be permitted the luxury of procedural delays when the file merely flits from one desk to another.

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 appellant is not worth acceptance.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

26.10.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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