

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

LPA No.2111 of 2017 (O&M)

Date of Decision : 02.11.2017

State of Punjab and others

....Appellants

Versus

Jatinderjit Singh

...Respondent

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

Present : Mr.P.P.S.Thethi, Addl.AG, Punjab.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 05.08.2016 but filed after an inordinate delay of 418 days. The reasons for delay have been given in para 4 of the application under Section 5 of the Limitation Act, which we consider appropriate to extract herebelow :-

“4. That the certified copy of the judgment and order dated 26.08.2016 was received in the Service Branch of the office on 01.09.2016 and the same was received in the office of Principal Secretary to Govt. of Punjab, Department of Higher Education on 07.12.2016 and Department decided to file inter court appeal as the decision dated 03.12.2016 passed in CWP No.20491 of 2016 ultra virus the provision of Govt. instructions. Therefore, sanction to file the appeal was sought and granted by the Education-I Branch vide letter No.1/125/2013-2Edu.1 (5Edu.1)/904608/1 dated 04.01.2017 from Special Secretary to Govt. of Punjab, Department of

Higher Education, Punjab, Chandigarh. Thereafter the matter was remitted to legal cell of the Department to prepare the case for filing the inter court appeal. During the intervening period the office building was shifted to another building which has resulted delay of 418 days in filing the Letters Patent Appeal as some time was spent in gathering the requisite records and information as also preparation of Appeal.”

From the perusal of the above, we find that the learned Single Judge decided the lis on 05.08.2016. The certified copy of the impugned judgment was received in the office of the appellants on 01.09.2016 and the appeal was finally filed on 31.10.2017. We are not inclined to condone this huge delay of 418 days as there is no seriousness attached to the process and the concerned department showed no urgency knowing fully well that the limitation for filing intra-court appeal is merely 30 days. We cannot treat the Government Departments as novice and stranger to the concepts of law as they are well equipped with Law Officers as also the office of Advocate General. We also cannot treat the State or its departments any differently than an ordinary litigant. Rather, an ordinary litigant has to be given some indulgence in terms of relaxation but the State with numerous human resources and legal acumen at their command cannot escape the consequences of this brazen laxity to the process.

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.”

That apart, no worthwhile argument has been advanced even on merits. The respondent was M.Phil. and was entitled to senior scale after completion of 5 years of service which was granted to him

on 13.01.1990. The subsequent instructions dated 06.11.1998 clarified that revised pay scale would be applicable w.e.f. 01.01.1996 and selection grade will be granted uniformly after 5 years of service as Lecturer in the senior scale. This period the respondent completed on 13.01.1995. The issue thus squarely rests on facts and the applicability of the various instructions relied upon. Learned counsel for the appellant has been unable to show any worthwhile distinction so as to persuade us to intervene.

Dismissed on the ground of delay as well as on merits.

(MAHESH GROVER)
JUDGE

02.11.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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