

LPA no. 368 of 2017 (O&M) 1

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

LPA no. 368 of 2017 (O&M)

Date of Decision : 18.05.2017

Central Institute for Research on Buffaloes, Hisar

....Appellant(s)

Versus

Regional Provident Fund Commissioner, Haryana and another

...Respondent(s)

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

Present : Mr.Naveen Chopra, Advocate for the appellant

MAHESH GROVER, J.(ORAL)

The present appeal is directed against the judgment of the learned Single Judge dated 21.7.2016 and is accompanied by an application under Section 5 of the Limitation Act with a prayer that delay of 163 days be condoned for the reasons which have been mentioned in the application and we deem it appropriate to extract the same herebelow:-

“2. That the limitation in the present case will commence from 20.10.2016 since the said copy of the order dated 21.7.2016 was prepared on 8.8.2016 and stamped on 9.8.2016 and the same was dispatched on 20.10.2016 which was received by the appellant vide diary No. 6135 dated 24.10.2016. Thus, the limitation in the present case will start from 20.10.2016 when the same was dispatched by the writ branch of this Hon'ble Court. Since before 24.10.2016 the appellant-institute had no

information regarding the disposal of the writ petition which is clearly reflected from the High Court web site page of the petition status wherein no one from the side of the appellant-institute has applied for the certified copy of the order. The certified copy of the order dated 21.7.2016 was applied for the first time on 30.1.2017 and the LPA was filed the same day i.e 30.1.2017 under objection by appending uncertified copy of the order. Copy of the High Court web site page reflecting the case status is appended as Annexure A-1/Colly-9. Thus, the delay if calculated from 20.10.2016 is for 72 days and not 163 days as calculated by the registry.”

The impugned order will show the presence of the counsel who had prosecuted the writ proceedings and therefore, it is not understandable, that if the order was pronounced in open Court, then why the counsel representing the appellant did not apply for the certified copy of the order the very same day and intimate the appellant in this regard. The appellant in turn did not make any attempt to apply for the copy of the order and the afore-extracted assertion would indicate that they merely waited for the Court to dispatch the copy of the order which they received on 24.10.2016 which is now prayed by the appellant to be the starting point for the purpose of commuting the limitation.

We are afraid this would lay down an extremely bad precedent which not only is unacceptable but also contrary to law. The certified copy of the order dated 21.7.2016 was applied for the first time by the appellant

the appellant on 24.10.2016 then also there is no reason why the appellant remained silent upto 30.1.2017 to avail of his remedy of filing LPA. It is thus a clear case where the appellant has been casual, callous and negligent in prosecuting its case. Being the State agency it is expected that they would be equipped with legal advises; a fact not denied by the counsel for the appellant.

If that be so then there would be hardly any reason for the Court to condone such a glaring lapse which has resulted in delay of 163 days in filing the instant Letters Patent Appeal.

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.

Hence, instant appeal is dismissed on the ground of delay.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

18.05.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No