

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

LPA No.523 of 2017 (O&M)

Date of Decision : 27.07.2017

The State of Haryana and others

....Appellants

Versus

Chander Bhan

....Respondent

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

...

Present: Mr. Gagandeep S.Wasu, Addl.AG, Haryana.

...

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned
Single Judge dated 12.04.2016.

The respondent-employee, who had spent 19 years with
the appellants, was involved in a criminal case under Sections
279/337/338 IPC. After initial sentencing of simple imprisonment for
a period of one year he was released on probation eventually. The
appellants without issuing any show cause notice to him terminated
his services by placing reliance on certain judgments of this Court
mandating that the drivers who have been convicted under Section
304-A IPC ought not be reinstated.

It is not the case of the appellants that the respondent had
in his previous 19 years of service caused numerous accidents and
was negligent in the discharge of his official duties. In the solitary
case of an accident where he was released on probation was

confronted with the order of termination and that too without following the principles of natural justice. On the face of it the order passed by the disciplinary authority was not only harsh but absolutely contrary to the principles of natural justice considering that the employee had put in 19 years of service with them. The learned Single Judge set aside the termination order on the ground of violation of principles of natural justice as also with a hint that the employee was not involved in a serious offence and thus there was no justification with the appellants to terminate his services in the manner so adopted by them.

We thus do not find any ground to interfere with the impugned judgment, particularly when the appeal is also barred by an inordinate delay of 279 days, part of which has been explained to subsequent review proceedings initiated by the appellants before the learned Single Judge. Even if this period is to be condoned then also the appellants have no justification for not filing the appeal particularly when the review order was pronounced on 12.08.2016 and would be in the know of the appellants. This delay has been explained in paras 5 and 6 of the application. It is strange that along with the draft LPA and the application under Section 5 the affidavit was attested on 21.01.2017 while the appeal itself was filed in March 2017. We cannot lose sight of the fact that the Advocate General office is not only thoroughly equipped with the officers trained in law who are expected to know the constraints of the limitation Act and therefore, are unable to accept the explanation for delay attributed to

procedures.

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 also 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.

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

(MAHESH GROVER)
JUDGE

27.07.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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