

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

LPA No.531 of 2017 (O&M)

Date of Decision : 26.07.2017

Municipal Corporation, Faridabad

....Appellant

Versus

Parmod Kumar Sharma and others

....Respondents

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

...

Present: Mr. D.S.Nalwa, Advocate
for the appellant.

...

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 17.08.2016 vide which the appellant was directed to re-engage the appellant to the post of Junior Engineer (on contractual basis) but liberty was given to the Corporation to proceed against him after affording an opportunity of hearing. We may extract the relevant portion of the impugned judgment herebelow :-

“For the reasons recorded above, the petition is allowed. Municipal Corporation, Faridabad is directed to re-engage the petitioner to the post of Junior Engineer (Contractual basis). Such direction would not be treated as an impediment for the Corporation to make regular appointment to the post in question. Corporation would be at liberty to proceed against the petitioner but

only after affording him an opportunity and after due compliance of the principles of natural justice. The issue with regard to arrears of salary for the period that the petitioner remained out of service and his further continuance as a contractual appointee would be subject to the outcome of any fresh order that may be passed by the Corporation.”

Learned counsel for the appellant contends that respondent No.1 was not their employee. We do not intend to comment on this aspect, particularly when the appellant did not invite a finding from the learned Single Judge in this regard. Even though they have mentioned in their written statement that the services of the appellant were engaged through outsourcing but it was for them to raise such issues before the learned Single Judge, which they have not done.

Apart from the above, we notice that the appeal is barred by an inordinate delay of 189 days which has not been explained satisfactorily. It has been averred that the judgment of the learned Single Judge dated 17.08.2016 was received by them on 01.09.2016, whereafter a committee was constituted to look into the judgment which gave its opinion on 23.12.2016 and the matter was then referred to the office of Advocate General, Haryana on 28.12.2016 but the appeal was filed in March 2017. Therefore, it is a casual explanation where the Corporation itself consumed more than three months in taking an opinion and the office of the Advocate General

also took another 3 months to file the appeal. Such delay cannot be condoned for the reason that the Municipal Corporation and the State agencies are well equipped with legal personnel assisting them in the discharge of their functions and they would be expected to be in the know of law of limitation prescribed which is merely 30 days in intra court appeals. Even though some leeway can be given to the Corporation to condone the delay on account of the lengthy procedures involved but it has to bear some proportion to the period of limitation prescribed, and the courts would be reluctant to interfere when absolutely no justification is offered.

For the aforesaid reasons we do not want to condone the delay particularly when the Hon'ble Supreme Court has observed in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.* **2012(2)S.C.T.269** 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.”

Dismissed.

(MAHESH GROVER)

JUDGE

26.07.2017

dss

(RAJ SHEKHAR ATTRI)

JUDGE

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