

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 1641 of 2015 (O&M) in
CWP No. 3586 of 1993
Date of decision: 27.3.2018

Sh. D. N. Trikha (since deceased) through his legal heirs

.. Appellant

v.

M/s Goodyear India Limited and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hitesh Pandit, Advocate for the appellant.
Mr. A. S. Chadha, Advocate for respondent No. 1.

...

Rajesh Bindal J.

The order passed by the learned Single Judge has been challenged by filing the present intra-court appeal. Along with the appeal, an application seeking condonation of delay of 2,157 days in filing thereof has also been filed.

The reason assigned in the application for condonation of delay is that initially, Mr. Anil Shukla, Advocate was engaged to file appeal and he immediately filed the same, which was returned with some objections, however, the deceased-workman was not informed. Unfortunately, he expired on 27.9.2010. Thereafter, his legal heirs enquired about the case and

finding that the appeal was not re-filed, the present appeal was filed in the

year 2015.

As far as merits of the case are concerned, though the learned Labour Court had directed reinstatement of the deceased-workman along with full back wages, however, considering the fact that the award of the Labour Court was stayed during the pendency of the writ petition subject to compliance of the provisions of Section 17-B of the Industrial Disputes Act, 1947 and the deceased-workman had attained the age of superannuation on 8.9.1999 before the writ petition was taken up for final hearing, the writ petition was disposed of by passing the following order:

“19. The learned counsel appearing for the management states that if the workman had been still in service, he would have been superannuated and he had also withdrawn during the pendency of the proceedings 50% of his wages. He concedes that even if the award of the Labour Court is set aside, he shall not persist in recovery of the amount. The said contention is hereby placed on record. There shall be no recovery for the workman for the wages paid to him already on the basis of the award.”

The management left all its claim and stated that 50% back wages paid to the deceased-workman would not be taken back. At the present, the workman has already expired.

Keeping in view the aforesaid circumstance and huge delay in filing the appeal, especially when there is no explanation for a period of 5 years from 2010, when the workman died, till 2015, when the present appeal was filed afresh, we do not find that any ground is made out to interfere in the present appeal or in the application for condonation of delay.

Accordingly, the appeal as well as application for condonation of delay in filing thereof are dismissed.

(Rajesh Bindal)
Judge

(Anil Kshetarpal)
Judge

27.3.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No