

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

FAO No.5440 of 2018 (O&M)
Date of decision: 14.11.2018

DFO and another

... Appellants

Versus

Guddi @ Devki and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Indresh Goel, Addl. A.G., Haryana.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against order dated 30.12.2015 passed by the Commissioner, Hisar under the Employees Compensation Act, 1923 (hereinafter to be referred as 'the Act') for grant of compensation on account of death of Bhup Singh on 31.01.2014 as application filed by Guddi @ Devki and others was allowed and the claimants have been allowed compensation of Rs.5,10,795/- with interest @ 12% per annum from 31.01.2014 upto actual payment.

Along with the appeal, an application has been filed for condonation of delay of 912 days in filing the appeal by invoking Section 5 of the Limitation Act. Dr. Rajesh Vats, Divisional Forest Officer (T), Forest Division, Hisar has filed his affidavit in support of the application.

Counsel for the applicants/appellants would argue that delay in filing the appeal is neither intentional nor on account of negligence on the part of appellants. It is further argued that the official process to take a final

decision for filing the appeal involved various stages like the office of District Attorney, Legal Remembrancer and Advocate General, Haryana, therefore, delay in filing the appeal has occurred. It is further submitted that technical considerations cannot be allowed to be pitted against substantial justice. The last submission made by counsel is that the appellants shall suffer an irreparable loss in case the delay is not condoned.

Before adverting to the submissions made by counsel for the applicants/appellants, it is pertinent to extract the relevant averments made in the application for condonation of delay of 912 days, quoted thus:-

3. That after pronouncement of the impugned order, the District Attorney, Hisar.
4. That the Legal Remembrancer, Haryana vide letter No.39206 dated 25.10.2016 has accorded sanction for filing the appeal and after which the draft of the present appeal was prepared and got typed which was sent to the Advocate General, Haryana.
5. That in view of the above said peculiar facts and circumstances, there is a delay of 912 days in filing the appeal which is not intentional or willful nor on account of any negligence on the part of the appellants. The official machinery has been involved in various stages like the office of District Attorney, Office of Legal Remembrancer and Advocate General, Haryana where the departmental sanction, consideration, vetting etc. for filing the appeal are involved for which the official procedure and function are time consuming and so the delay caused due to the official process of the Government Department and the delay so caused is liable to be condoned.

Perusal of the aforesaid extract makes it evident that averments in para 3 are incomplete and do not convey any meaning. The applicants

have not given the details as to for how much period the file remained pending with different offices/officers involved in the process of taking a final call for filing the appeal.

Hon'ble the Supreme Court in **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr., 2012 AIR (SC) 1506** while dealing with condonation of delay of 427 days in filing special leave petition to appeal, on detailed consideration of various judgments of the Apex Court on the issue, has concluded in para 13, reads thus:-

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 bonafide 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.

When the facts and circumstances set out in paras 3 to 5 of the application, extracted hereinbefore, are examined in the light of aforesaid observations in **Office of the Chief Post Master General & Others's case**

(supra) it can unhesitatingly be held that there is no explanation at all offered by the appellants in order to justify their failure to file the appeal except after delay of 912 days and as such the applicants have miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the application for condonation of delay is dismissed. As a natural corollary, the appeal is dismissed being barred by limitation.

Before parting with this order, it is necessary to mention that in order to create an atmosphere that all the officers and officials in the government departments are under a special obligation to ensure that they perform their duties with diligence and commitment, the Chief Secretary of the State of Haryana is directed to initiate appropriate proceedings against the delinquent officers/officials responsible for causing delay of 912 days in filing the appeal and recover the amount from those officers/officials which the Department has to pay in view of the order impugned. The entire process of fixing responsibility and recovering the amount shall be completed within a period of three months from the date of receipt of certified copy of the order, under intimation to this Court.

14.11.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No