

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

RFA No. 6510 of 2015 (O & M)
Date of decision: 16.04.2018

Punjab Small Industries & Export Corporation Ltd.Appellant(s)

Versus

Balbir Singh and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Abhilaksh Grover, Advocate,
for the appellant.

None for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 7 appeals i.e. RFA Nos. 6510 to 6516 of 2015 alongwith applications for condonation of delay in all the appeals as common questions of facts and law are involved in all the appeals. For reference, ***RFA No. 6510 of 2015, Punjab Small Industries & Export Corporation Ltd. vs. Balbir Singh and others*** is being taken up.

Applications have been filed for condonation of 966 days delay in filing the appeals under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') against the award dated 17.09.2011 passed by the Reference Court, Gurdaspur. Vide the said order, the compensation has been enhanced to Rs.1,600/- per marla (Rs.2,88,000/- per acre) for the land situated in village Gho, which was acquired vide award dated 30.05.1994 by the Industries Department under the notification issued under Section 4 on 06.04.1992.

In the application for condonation of delay, the ground taken is that the counsel had not informed the Corporation and it was only in December, 2012, upon getting notice in the execution, the Corporation had contacted the counsel. The award was admittedly received by the Planning Wing of the Corporation on 09.01.2013. A decision was taken for taking the opinion from the office of Advocate General on 24.02.2014 after over a period of one year. The file was received back on 23.04.2014 to take a decision on their own. The file was then put up before the Managing Director on 06.05.2014 whereby, he approved the filing of the appeal and thereafter the counsel was engaged on 15.05.2014 and the appeal was, thus, filed only on 08.08.2014.

In similar circumstances, in ***RFA No. 623 of 2016, Punjab Small Industries & Export Corporation Ltd. vs. Wazir Singh (D) through L.Rs. and others***, the inordinate delay in filing the appeal whereby, the matter had been taken up in a casual manner had been discussed and the delay has not been condoned vide order dated 10.01.2018. The relevant portion reads as under:-

“A perusal of the application, as noticed above, would show that that even after receipt of the order dated 13.03.2012 on 11.12.2012, Corporation took 3 years to file the appeal, since it was admittedly filed on 11.12.2015. The reasoning given is not justified as the matter was kept pending at various levels, including asking for unnecessary opinions and resultantly, the explanation which has been given in the application, is not justified.

*Counsel for the respondents is well justified in placing reliance upon the judgment of the Apex Court in case of **Office of the Chief Post Master General &***

others Vs. Living Media India Ltd. & another 2012 (2) SCT 269, wherein the Apex Court has delineated the law on the said issue and held that in the absence of any proper explanation offered by the Government/Department and in the absence of any bona fide effort, the explanation is not likely to be accepted. It has further been held that the Department cannot take advantage of the impersonal machinery and inherited bureaucratic methodology and the law of limitation binds everybody including the Government. Relevant portion of the judgment read as under:

“12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern

technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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 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. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

Accordingly, this Court is of the opinion that no sufficient cause has been made out for condoning the delay in filing the present appeal. Consequently, the application for condonation of delay as well as the main appeal are, hereby, dismissed.”

The issue is, thus, squarely covered as such against the Corporation as no credible explanation as such has been given for the delay which has occurred since the Corporation has proceeded along at a snail's

pace.

Accordingly, the applications for condonation of delay of 966 days in filing the appeals are dismissed. Resultantly, the appeals also stand dismissed.

16.04.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No