

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

LPA-228-2018 (O&M)

Date of Decision: 15.05.2018

The Director, Women & Child Development Department, Haryana & others

... Appellants

Versus

Shashi Bala & another

... Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE.**

HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Ms. Mamta Singla Talwar, DAG, Haryana.

...

TEJINDER SINGH DHINDSA, J.

CM-558-LPA-2018:

1. Instant application has been filed seeking condonation of delay of 17 days in re-filing the accompanying appeal.
2. It has been averred in the application that after filing of the appeal, Registry had raised certain objections and as such, the only justification being put forth is that due to lengthy process of dealing with the case file by the concerned Government Department, delay in re-filing has occurred.
3. The instant application only reflects the casual approach adopted by the State Government in pursuing the appeal that had been filed. The justification put forth cannot be accepted.
4. Prayer is declined.

5. Application is dismissed.

Main case:

1. Instant appeal has been filed under Clause X of the Letters Patent against judgment dated 10.11.2017 passed by learned Single Judge, whereby writ petition filed by the appellant assailing the award dated 30.04.2014 passed by labour Court, Ambala in favour of respondent No.1 has been dismissed.

2. Vide award dated 30.04.2014 (Annexure P-6) passed by labour Court, reference was answered in favour of respondent No.1 and she was granted the relief of reinstatement with continuity of service along with 50% backwages.

3. Learned counsel representing the appellant has raised a two fold submission. It is contended that respondent No.1 had been engaged as Anganwari Worker and there was a charge of embezzlement/ misappropriation of funds and to which respondent No.1 had confessed her guilt. In support of such contention, learned counsel adverts to the document appended as Annexure P-7. Argument raised is that under such circumstances, there was no requirement in law to have held a full-fledged inquiry and learned Single judge while dismissing the petition and affirming the award passed by the labour Court has overlooked the document placed on record at Annexure P-7.

4. The second submission raised by learned counsel is that respondent No.1 had only been appointed as Anganwari Worker which does not fall within the expression of a '**civil post**' under the State Government and as such, the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (in short 'the 1987 Rules') would not apply. It is urged that there was no requirement to follow the procedure envisaged under the 1987 Rules prior to taking action against respondent No.1.

5. Learned counsel for the appellant has been heard at length and case paper book has been perused.

6. The uncontroverted facts are that respondent No.1 was appointed as Anganwari Worker on 18.07.1996. Her services were terminated on 28.08.2007 on an allegation of embezzlement of funds.

7. We find that the stand taken on behalf of the appellant/State that a full-fledged inquiry was not to be undertaken in the light of admission of guilt on the part of respondent No.1, is wholly misconceived and contrary to record. We have perused the document at Annexure P-7, which is in the nature of a joint statement of respondent No.1 along with three other co-workers, namely, Kanta, Pushpa and Balwinder Kaur and recorded by the concerned Child Development Project Officer. Such joint statement made by four employees relates to quantum of expenditure and withdrawal for the months of January to June, 2007. The joint statement of four employees including respondent No.1 at best reflects a overdrawal of Rs.800/- over a period of six months. Such statement by no stretch of imagination can be construed as an admission of guilt as regards embezzlement/misappropriation. Even though, respondent No.1 was not holding a '**civil post**' under the State Government and the 1987 Rules did not hold the field, yet in law, it was obligatory upon the appellant/employer to have conducted an inquiry by adhering to the Rules of natural justice and to record a conclusive finding as regards embezzlement prior to imposing the major penalty of termination from service. The same admittedly has not been done.

8. The labour Court upon due appreciation of evidence adduced on record has recorded a finding of violation of Section 25-F of the Industrial Disputes Act on account of notice having not been served and even

retrenchment compensation having not been paid.

9. We are of the considered view that findings of the labour Court did not call for any interference and the learned Single Judge has rightfully negated challenge to the award dated 10.11.2017 (Annexure P-6).
10. There is no merit in the appeal.
11. Appeal is dismissed on merits as well as on the ground of delay.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

15.05.2018

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |