

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

**LPA No.426 of 2018(O&M)
Date of decision: 24.07.2018**

Union of India

... Appellant

Versus

Maj. Retd. S.S. Guraya and others

... Respondent

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Vivek Singla, Advocate for the appellant.

KRISHNA MURARI, C.J. (Oral)

Union of India has filed the instant appeal under clause X of the Letters Patent challenging judgment and order of the learned Single Judge dated 17.03.2017 allowing the writ petition filed by respondent No.1 challenging the recovery being made from him for an alleged over payment of pension.

Admittedly, petitioner was a Commissioned Officer in the rank of Major in the Government of India, Ministry of Finance and Ministry of Defence respectively and after retirement he was disbursed pension through Punjab National Bank. Misinterpreting some orders passed by the office of Accountant General of India, initially the respondent-Bank recalculated and enhanced the pension of the petitioner but after an objection was raised by the Audit, of its own passed an order of recovery of the alleged overpayment.

Learned Single Judge allowed the writ petition and directed the respondent-Bank to return the money recovered and further directed that the future monthly pension will be paid as was being originally paid. Aggrieved

by the aforesaid order, Union of India, who was only a formal party in the writ petition, has filed the instant appeal.

Office has reported delay and latches of 335 days in filing the appeal. The only explanation submitted in the application filed under Section 5 of the Limitation Act and the affidavit filed in support thereof is that the record got lost in the office of learned counsel and could not be traced out and subsequently it was discovered in the bundle of decided cases.

To us it appears that this story had been cooked up to explain the delay and latches and there is no truth in it. It is really surprising that the responsible officers of the Union of India after handing over the necessary papers to the learned counsel did not enquire the fate of the appeal for about almost a year. A litigant with such an irresponsible attitude is not entitled for condonation of delay. Even otherwise, we fail to understand as to how and for what reason, a party against whom no directions have been issued by the learned Single Judge while allowing the petition, had occasion to file the appeal. In our considered opinion, it is barred by time and the delay condonation application is not liable to be allowed. Appeal stands dismissed as barred by delay.

Dismissal of this appeal shall not stand in the way of disposal of the LPA filed by Bank on its own merit.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

24.07.2018
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO