

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.107

LPA No.604 of 2018 (O&M) in
CWP No.10644 of 2016
Date of decision: 31.05.2018

State of Haryana and others

....Appellants

versus

Sher Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present: Mr. Samarth Sagar, Addl. A.G., Haryana.

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RAJESH BINDAL, J.

Order dated 10.03.2017 passed by the learned Single Judge allowing the writ petition in terms of earlier order passed in CWP No.17150 of 2015 – Pawan Kumar and others vs. State of Haryana and others, decided on 24.01.2017 has been impugned by filing the present intra-court appeal. The appeal is accompanied by applications seeking condonation of delay of 220 days in filing and 113 days in re-filing.

The ground raised in the application seeking condonation of delay in filing is that the officer who dealt with the case had opined that the case is fit for filing the appeal. The Legal Remembrancer, Haryana did not agree with that opinion and found that the case is not fit for filing of the appeal. Still the department got issued instructions from the office of the Legal Remembrancer for filing of the present appeal. This can hardly be accepted as a reasonable explanation for condoning the delay of 220 days in filing of the present appeal.

A perusal of the impugned order passed by the learned Single Judge shows that the writ petition has been allowed in terms of an earlier order passed by this Court in Pawan Kumar's case (supra). Undisputedly, the aforesaid order was not challenged by the State. Meaning thereby, the State was selective in filing the appeals challenging the orders passed in the cases of different employees, who were similarly placed and had been granted the same relief by the Court. Hence while dismissing the applications seeking condonation of delay in filing and re-filing of the appeal, we do not find any error in the order passed by the learned Single Judge. The present appeal is also dismissed.

For filing frivolous appeal, resulting in wastage of Court's time, the appellants are burdened with costs of ₹ 25,000/-, which shall be recovered from the officer who after the opinion by the Legal Remembrancer had found the case fit for filing of the appeal without even noticing the fact that in Pawan Kumar's case (supra), which was relied upon by the learned Single Judge, no appeal has been filed by the State. The amount shall not be reimbursed by the State to the Officer concerned under any circumstances. The cost be deposited in the Registry of this Court within three months.

(Rajesh Bindal)
Judge

May 31, 2018
Jyoti 1

(Deepak Sibal)
Judge

Whether speaking/reasoned Yes

Whether reportable Yes/No