

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

105+211

CM No.15759-CII of 2019 in/and
CR No.4925 of 2015 (O&M)

Date of Decision : 05.11.2019

Major Singh

....Petitioner

v/s

The Pepsu Road Transport Corporation, Patiala
and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Ms. Jasleen Kaur, Advocate for
Mr. Vikas Chatrath, Advocate
for the petitioner.

Mr. Harsh Chopra, Advocate
for the respondents.

B.S. Walia, J. (Oral)

[1] Civil Revision Petition has been filed under Article 227 of the Constitution of India, praying for setting aside Order (Annexure P/3) dated 19.01.2015, passed by the learned District Judge, Patiala, dismissing the appeal filed by the petitioner, solely on the ground of limitation i.e. unexplained delay of 152 days.

[2] Brief facts of the case, leading to the revision petition are that the petitioner, who had joined the Pepsu Road Transport Corporation as a Driver on 15.06.1988 was imposed punishment of withholding of two annual increments without cumulative effect vide Order dated 30.05.1997, besides 03 annual increments with cumulative effect vide Order dated 30.08.2000.

[3] The petitioner filed Civil Suit No.01T on 28.09.2012, praying for a declaration that he was entitled to get his pay fixed correctly and to receive annual increments illegally withheld by the respondents along with consequential relief. Prayer was also made for a decree of mandatory injunction for directing the respondents to provide the benefits mentioned above to the petitioner forthwith.

[4] The learned trial Court dismissed the civil suit filed by the petitioner *inter alia* on the ground that the petitioner had not taken action against the orders, stopping his annual increments despite the lapse of a period of close to two decades, therefore he was estopped from challenging the orders of the respondents on the ground that he was not conveyed the orders, as it was very hard to believe that the petitioner was not aware of the orders, withholding his increments.

[5] Aggrieved against the dismissal of the civil suit, the petitioner filed an appeal on 17.04.2014 against judgment and decree dated 09.10.2013 after a delay of 152 days. Condonation of delay of 152 days in late filing of the appeal was sought by the petitioner on the ground that his wife was suffering from various ailments/ health related problems, besides he himself was suffering from mental tension and depression, therefore, could not contact his counsel and get the appeal filed within time.

[6] That the respondents filed reply to the application seeking condonation of delay, contending that the application was false and mischievous, that the petitioner had not approached the Court with clean hands and had taken a vague excuse for seeking condonation of delay, consequentially, the application was an abuse of the process of law.

[7] On the basis of pleadings, the learned Appellate Court framed issue whether there was sufficient ground for condonation of delay?

[8] In the cross-examination, the petitioner admitted that he had come to know about the decision by the learned trial Court on the same day as also that he had not brought any documentary proof to show that he or his wife were suffering from ailments and health related problems.

[9] The learned District Judge held that the averments with regard to ailment of the wife of the petitioner were very vague, and lacking material particulars, as no precise ailment had been mentioned nor the period for which she had remained ill, nor the name of the Hospital/Doctor from where she had taken treatment as indoor or outdoor patient, likewise, in the case of the petitioner. Consequentially, the learned District Judge, Patiala, dismissed the application for condonation of 152 days delay in filing the appeal and in view thereof, the appeal also vide Order dated 19.01.2015, solely on ground of the petitioner not having approached the Court within the stipulated period of time nor having shown sufficient cause for not filing the appeal within the stipulated period of time.

[10] Petitioner filed affidavit dated 25.07.2019 along with CM No.15759-CII-2019 to explain the delay on account of treatment allegedly taken by his wife from the Civil Hospital, Jagraon, as well as a private hospital at Ludhiana by contending that record of the medical treatment was not available since a period of 05 years had elapsed. He however placed on record details of bank transactions *qua* Debit Card at Hotel A-1, Link Road, Ludhiana for ₹417/- on 10.11.2013 and ₹5,000/- on 16.11.2013 in support of the plea of his wife having undergone treatment at Ludhiana.

[11] I have considered the affidavit, as also the details of the ATM transactions relied upon by the petitioner i.e. of ₹417/- on 10.11.2013 and ₹5,000/- on 16.12.2013 both at Hotel A-1, Link Road, Ludhiana. No evidence of treatment or payment of medical treatment charges or medication charges has been placed on the record, nor has any prescription slip been placed on the record. The expenses of ₹417/- and ₹5,000/- incurred in Hotel A-1, Link Road, Ludhiana on 10.11.2013 & 16.11.2013 do not in any way substantiate the petitioner having spent the money for getting his wife medically treated. The petitioner has miserably failed to lead any evidence to substantiate his wife or for that matter, he himself having remained ill during the relevant period, consequently not being in a position to file the appeal within time. Accordingly, finding no merit in the revision petition, the same is ***dismissed***.

(B.S. Walia)
Judge

November 05, 2019
'Rajneesh'

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No