

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 529 of 2019 (O&M)

Date of Decision: 24.01.2019

Harbhajan Singh

.....Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Gagan Mohini, Advocate
for the petitioner.

AVNEESH JHINGAN, J.(oral)

The present civil revision petition has been filed being aggrieved of order dated 5.10.2018 passed by Additional District Judge, Kapurthala (hereinafter referred to as 'Appellate Court') dismissing the application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 14 years.

Punjab State Civil Supplies Corporation Ltd. Chandigarh through its Managing Director and Punjab State Civil Supplies Corporation Ltd. Chandigarh through its District Manager, PUNSUP, Kapurthala, have been arrayed as respondents No. 1 and 2.

The facts in brief are that the petitioner was an employee of respondents No. 2. During his service certain essential commodities were found missing and a suit for recovery of Rs. 1,69,725/- was filed by respondents No.2-plaintiff on 3.8.1995. The said suit was duly contested by the petitioner, the suit was decreed vide judgment and decree dated 21.8.2000. Execution application was filed by the decree-holder on 19.12.2000. Execution proceedings were also contested by the petitioner. The execution was allowed vide order dated

respondent No.2 has not been able to recover the amount of Rs. 1,69,725/- inspite of the fact that the judgment and decree was passed in the year 2000 and the property was attached in the year 2007.

The petitioner filed an appeal on 20.12.2014 along with an application for condonation of delay. The application was dismissed vide order dated 5.10.2018. Hence, the present civil revision petition.

There was a delay of 14 years in filing the appeal. The application filed along with appeal for condonation of delay has not been annexed with the petition, but learned counsel for the petitioner states that the reason given in the application has been duly reproduced in the impugned order. The reason given for delay was that the petitioner was not in possession of letter dated 6.4.1993 and it has come in his possession very recently. Further, it was an official document and the appeal is being filed on the advise that on the basis of the letter dated 6.4.1993, the case has become good for filing the appeal.

Section 5 of the Limitation Act, provides that where sufficient cause is shown, the delay is to be condoned. The phrase "sufficient cause" is liberally construed where period of delay is short but a strict approach is adopted where the delay is inordinate.

Reliance in this regard is placed upon the decision of the Supreme Court in **Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC 459**, wherein it has been held as under :-

“8. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be

kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate."

In the above decision, it has been held that Section 5 is elastic enough to enable courts to serve the ends of Justice. But, if no satisfactory explanation is coming forth, delay should not be condoned.

In the present case, there cannot be any dispute that 14 years delay is inordinate. The explanation put forth for condonation of delay is not satisfactory rather, there is no explanation. Coming into possession of a document at a later stage that took almost 14 years is in itself no ground for condoning the delay.

Be that as it may, even there is lack of *bonafide* in the explanation as from the perusal of letter dated 6.4.1993, it is evident that the said letter was addressed to petitioner himself by District Manager, PUNSUP, Kapurthala, it cannot be said that the petitioner was not in possession of this letter till 2014.

There is another aspect of the matter that the petitioner has been successfully delaying the recovery proceedings right from 1995 to 2014 i.e. almost more than 19 years. The appeal along with delay application is one of the tactic for achieving the said goal.

Municipal Committee (now Municipal Corporation), Bathinda vs. Bachan Singh through his LRs and another, 2017 (3) R.C.R. (Civil) 145 (P&H) (DB),
while refusing to condone the delay of 1760 days, as the explanation was not satisfactory, held as under :-

“10. Adverting to the factual matrix in this case seeking condonation of inordinate delay of 1760 days in filing and 85 days in refiling the appeal, we do not find any merit in the same. The question regarding whether there is sufficient cause or not depends upon each case and primarily is a question of fact to be considered taking totality of events which had taken place in a particular case. In the present case after appreciating the matter it cannot be said that there was sufficient cause for condonation of delay. The learned Single Judge decided the matter on 11.5.2011 and the appeal was required to be filed within the stipulated period of limitation of thirty days. But the appellant has filed the appeal on 5.4.2016 and refiled on 10.8.2016, after a colossal delay of 1760 days. The explanation of the appellant praying for condonation of delay in filing and refiling the appeal, as noticed hereinabove, is bereft of sufficient cause for delay caused in filing the appeal. Moreover, even after the judgment dated 26.11.2014 was passed accepting the appeal against the judgment on the basis of which order was passed in the present case, the Letter Patent Appeal was filed on 5.4.2016, i.e., after about one year and four months. There is no satisfactory explanation for this delay as well. The Government department is supposed to pursue its litigation with due diligence. A stale matter cannot be revived by approaching the Court belatedly.

11. In view of the above, finding no merit in the applications for condonation of 1760 days' delay in filing and 85 days' in refiling the appeal, the same are hereby dismissed and consequently, the appeal is dismissed as time barred.”

Since there is no explanation or much less satisfactory explanation for condoning the delay. No interference is called for in the impugned order.

The civil revision petition is dismissed.,

(AVNEESH JHINGAN)
JUDGE

24.01.2019
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No