

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6897 of 2012
Date of Decision: April 22, 2019

Kamlesh

...Petitioner

Versus

Chief Administrator, Haryana State Agricultural Marketing Board,
Panchkula & Another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Sandeep Goyat, Advocate,
for the petitioner.

Mr. S.K.Mahajan, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

The present revision petition is directed against the impugned order dated 06.05.2011, whereby the appeal of the petitioner-plaintiff against the judgment and decree dated 20.01.2010, has been dismissed being barred by nine months.

Petitioner sought the declaration against the defendants of illegally withholding of the service benefit, i.e., family pension pertaining to late Ram Bhagat, who was a regular employee of the Market Committee, Hisar and rendered his services from 10.04.1980 to 08.08.1995. It was alleged that he rendered about 15 years of service and tendered resignation on 08.08.1995, which was accepted by the Market Committee. Thereafter, the plaintiff applied to the office of the Market Committee for granting family pension, but no heed was paid.

Defendants opposed the suit on various grounds resulting into dismissal of the suit vide judgment and decree dated 20.01.2010.

Mr. Sandeep Goyat, learned counsel representing the petitioner- plaintiff submitted that the delay was neither intentional nor willful as the counsel, who was engaged, was contesting the Bar Association election resulting into delay. Even the petitioner-plaintiff was not aware of the law of limitation. The Lower Appellate Court ought to have condoned the delay and heard the appeal on merits subject to any terms which the Court deemed appropriate.

Mr. S.K.Mahajan, learned counsel for the respondent-defendants submitted that the election of the Bar Association was not for nine months and the result of the election was declared in the same very month in which it was held, but there is no explanation of not having availed the remedy post thereto. A person cannot be permitted to put entire blame on the conduct of the counsel as no element of diligence on the part of the petitioner-plaintiff has surfaced and, thus, urged this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the only ground for seeking condonation of delay was the election, which, in my view, cannot be a sufficient ground for condoning the delay. Equally so, the Lower Appellate Court ought to have taken the approach in a most pragmatic and reasonable manner by hearing the appeal on merits as it was a case of denial of family pension on the basis of the pleadings and the oral and documentary evidence. It is a common practice amongst the litigants to indulge into blame game, but the law with regard to affecting litigants' interest on the lapse of the counsel cannot be a

sole ground of condonation of delay and equally so, the litigants are required to be diligent in availing their statutory remedies. Ignorance of law excuses no one. Be that as it may, in order to prevent miscarriage of justice, the impugned order, in view of the reasoning aforementioned, is hereby set-aside. The delay of nine months in filing the appeal is condoned.

Revision petition stands allowed subject to payment of ₹5,000/- as costs to be deposited in the account of Lawyers Welfare fund of District Bar Association, Hisar.

April 22, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No