

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RA-CW-167-2019 (O&M) in
CWP No.9920 of 2017
Date of Decision: 10.05.2019**

Divisional Forest Officer, Territorial,
Govt. of Haryana, Forest Department,
District Kaithal

... Petitioner

Versus

Dharam @ Dharampal and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Indresh Goel, Addl. AG, Haryana,
for the applicant-petitioner.

RAJIV NARAIN RAINA, J.

1. This review application has been filed after extraordinary delay of 663 days for which I find no acceptable ground or sufficient cause explaining belated approach to condone the period of delay. The reasons attributed to the delay all reflect red-tapism of a routine kind taken by the State Government as stock reason in many other such cases.

2. Clutching at a job card held by the respondent-workman issued under the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) which scheme provides one member of the family 100 days of assured work during a year the department pleads should reduce arrears of back wages as it would amount to double employment for the days of labour spent. With this document the applicant-petitioner seeks review of the order after having spent months on end engaging in correspondence from one office to the other, building a case for filing Letters Patent Appeal against

the judgment and order in review. And finally deciding on the advice if the office of the Advocate General to file a review instead of an appeal in the first instance. Work done in the scheme would not qualify as gainful employment. That desultory money earned can be off set as solatium and sustenance during enforced idleness brought about by illegal termination.

3. On office delay the Supreme Court in case Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr., (2012) 3 SCC 563 has after noticing past dicta on limitation in filing appeals etc. has observed that the department cannot take advantage of various earlier decisions. The Supreme Court held that a claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies used and available. To quote the relevant part of the judgment deprecating such delays on the part of the Government bodies, the Supreme Court observed in Para.12 as follows:-

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or

deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.”

4. Then again in para.13 the observations quoted below have come:

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.

5. Besides, any interference in review would amount to change of opinion. The material placed before the Court in the writ petition was duly

considered and opinion expressed in challenge to the award of the Labour Court.

6. The application for condoning the delay of 663 days is dismissed and with the rejection of that application the main review application is also ordered to stand dismissed.

10.05.2019
manju

**(RAJIV NARAIN RAINA)
JUDGE**

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