

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

RSA No.2265 of 2019 (O&M)

Date of Decision: November 19, 2019

Pawan Kumar

...Appellant

Versus

Punjab State Electricity Board (PSEB) Patiala and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. M.S. Bal, Advocate
for the appellant.

JAISHREE THAKUR, J.

1. This is a regular second appeal that has been filed seeking to challenge the judgment and decree dated 28.04.2014 passed by the lower court, dismissing the suit of the appellant-plaintiff as well as the judgment and decree dated 05.08.2016 passed by the first Appellate Court whereby, the appeal filed by the appellant stood also dismissed.

2. Along with the appeal, there is an application seeking condonation of 993 days in filing the appeal. It is argued that the appellant is a layman and is not aware regarding the procedure and was fully dependent on his counsel, who has filed the appeal before the first Appellate Court. It is contended that when the appellant became aware regarding the further appeal before this Court from the reliable sources, he approached the counsel and the counsel replied to him that he has already filed an appeal

before this Court. It is submitted that after receiving notice of recovery from the respondent-Department, the appellant enquired through his reliable sources whether appeal is pending before this Court and only then, he came to know that no appeal has been filed so far. It is further argued that thereafter, the appellant applied for certified copy of judgments and decrees of the courts below and after receiving the same, he approached the counsel for filing the second appeal in this Court.

3. I have heard counsel for the appellant and with his assistance, have gone through the pleadings of the application.

4. It is settled principle that under Section 5 of the Limitation Act, length of delay is no matter, acceptability of the explanation is the only criteria. Rules of limitation are not meant to destroy the right of the parties. The condonation of delay is a matter of discretion of the court. In the case in hand, in the application seeking condonation of delay, various averments have been made, however, no details have been given in support of the said averments. There is nothing mentioned in the application that initially as to when the appellant approached the counsel for filing regular second appeal, who replied to him that his appeal has already been filed before this Court. Even the name of the said counsel, to whom the appellant approached, has not been disclosed. Further, no date or other detail has been mentioned, as to when the appellant received notice of recovery from the respondent-Department, besides the date on which he came to know that no appeal has been filed before this Court so far. As per the averments made in the application, the appellant applied for certified copy of the judgment and decree of first Appellant Court on 04.12.2017 and received the same on

18.12.2017 whereas, the regular second appeal was filed before this court only on 29.04.2018 i.e. after more than four months even from the date receipt of said certified copy. Only bald averments have been made in the application, without any details thereof, which cannot be accepted as gospel truth. This court is of the considered opinion that, under these circumstances, no sufficient cause is made out to condone the delay of 993 days in filing the appeal.

5. In view of the above, the application in hand seeking condonation of delay is hereby dismissed. Resultantly, the appeal stands also dismissed.

November 19, 2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No