

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

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RSA No.1585 of 2018 (O&M)

Date of Decision: 20.02.2019

Haryana Warehousing Corporation and others

...Appellants

Versus

J.S. Verwal (Jagan Singh Verwal)

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Lekh Raj Sharma, Advocate,
for the appellants.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM-13590-C-2018

Prayer in this application is for placing on record Annexure A-1 (colly) and for exemption from filing the certified/typed copies of Annexure A-1(colly).

Application is allowed, as prayed for, subject to all just exceptions.

Annexure A-1(colly) is taken on record.

CM stands disposed of.

CM-4225-C-2018 in/and
RSA No.1585 of 2018

Prayer in this application is for condonation of delay of 276 days in filing the appeal. Perusal of the application shows that no explanation has been given for in-ordinate delay in filing the appeal. Whatever little explanation which have been put forth, is not even worth mention. Non-explanation of the delay itself leads to dismissal of the application. As there is no explanation for the delay in filing the appeal which cannot be said to be reasonable and acceptable, the application deserves dismissal.

However, at the insistence of counsel for the appellants, the case has been considered on merits as well. Perusal of the judgments/decrees, passed by the Courts below would indicate that the trial Court had granted the relief to respondent-plaintiff partially by accepting the relief of interest on the amount of Rs.1,46,844/- for a period from 31.01.2004 to 05.02.2013; balance payment of leave encashment along with interest @ 8 % per annum w.e.f. 31.01.2004 till the date of final payment; interest @ 8% p.a. on the amount of GPF, Pension, GIS and commutation of pension on delayed payment made by the appellants-defendants with a mandatory injunction to that effect. Interest of 18 % has also been granted per annum upon the gratuity amounting to Rs.35,856/- w.e.f. 31.01.2004 to 02.04.2013 or till the final payment. The appeal against which, has been dismissed by the learned Additional District Judge, Kurukshetra on 15.03.2017, wherein, the appeal preferred by the appellants-defendants was limited to the extent of grant of interest in the light of fact that departmental proceedings were pending against the respondent-defendant and therefore, the amount had been withheld for carrying out recoveries from his retiral dues. The said plea has not been accepted resulting in dismissal of the appeal preferred by the appellants-defendants as well as the cross appeal of the respondent-plaintiff who has also challenged the judgment and decree dated 06.08.2015, passed by learned Civil Judge (Junior Division), Kurukshetra.

It is the contention of learned counsel for the appellants that interest which has been granted to the respondent-plaintiff should not have been granted in the light of the fact that there were departmental proceedings pending against him, wherein ultimately, he was held guilty and recoveries were ordered to be effected from him. The departmental proceedings as well

as the order of punishment has not been challenged by the respondent-plaintiff. These orders having attained finality clearly establish that there should not be withholding of the retiral benefits. Thus, the prayer is that the present appeal deserves acceptance by setting aside the grant of interest to the respondent-plaintiff by the Courts below.

I have considered the submissions made by learned counsel for the appellants and with his assistance, have gone through the judgment passed by the Courts below, but do not find myself in agreement with the said contention of learned counsel for the appellant.

In the light of the fact that the Courts below have granted interest to the respondent-plaintiff on the actual amount which he was entitled to, after deducting the amount as per punishment which has been passed by the appellants-defendants in the departmental proceedings when were concluded against him, being based upon the principle of wrong doer to compensate for delayed payments to the employee cannot be faulted with.

In view of the above, as the application for condonation of delay stands dismissed. The appeal as a consequence thereof, stands dismissed on the ground of being barred by limitation as well as on merits.

CM-4226-C-2018

In view of the dismissal of the main appeal, this application stands disposed of as infructuous.

20.02.2019
anju rani

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No