

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.31131 of 2019
Date of Decision: October 29, 2019

Kuldeep Sharma

...Petitioner

Versus

Sarva Haryana Gramin Bank & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Tribhuvan Dahiya, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

Notice of motion.

Mr. Gaurav Jindal, Advocate accepts notice on behalf of the
respondent-Bank.

The grievance expressed in the instant case is qua the impugned
order dated 20.12.2018 (Annexure P-8), whereby the statutory appeal in
terms of Regulation 49 of the Sarva Haryana Gramin Bank (Officers &
Employees) Service Regulations, 2010 (for short, 2010 Regulations), has
been dismissed being not preferred within a period of 45 days.

Mr. Tribhuvan Dahiya, learned counsel for the petitioner
submitted that vide order of punishment dated 29.12.2017 (Annexure P-5),
petitioner after having faced the enquiry proceedings, was imposed a
punishment of reduction of two stages in time scale by reducing his basic
pay from ₹ 42020/- to ₹ 39400/- per month with cumulative effect on the
date of his superannuation, i.e., 31.01.2017. Rule 49 of 2010 Regulations

prescribes the procedure of appeal to the Board, where the Chairman is competent authority, where the General Manager is competent authority and the General Manager, where the competent authority is decided by the Board. Since the order was passed by the Chairman, so the remedy lied before the Board, but the limitation prescribed is 45 days from the receipt of the order. Petitioner preferred an appeal (Annexure P-7) dated 28.02.2018, which has been dismissed vide order Annexure P-8 dated 20.12.2018. He moved an application dated 11.04.2019 (Annexure P-9) seeking condonation of delay of three days, resulting into rejection of the same vide order Annexure P-10 dated 27.05.2019. The reason for seeking condonation of delay was that the petitioner was sick and seeking treatment from various hospitals and, therefore, could not file the statutory appeal within time as it should have been filed upto 25.02.2018, but the same was filed on 28.02.2018.

I have heard the learned counsel for the petitioner and appraised the paper book.

Though the petitioner should have moved application for seeking condonation of delay along with the original appeal, but since he was not having assistance of lawyer and was not aware of the provisions of law and as well as interpretation of the Regulations prescribing 45 days limitation to file the appeal against the imposition of any punishment thought it fit to file the application for seeking condonation post the decision dated 20.12.2018 (Annexure P-8), whereby his appeal was rejected in the following manner:-

“Ref.No.HO/DAC/2018/3183 Date: 20.12.2018

Sh.K.D.Sharma

House No.639, Sector-10A

Gurugram 122001.

Reg: Appeal dated 28.02.2018 preferred by you against order dated 29.12.2017 in respect of charge sheet dated 31.01.2017 issued to you.

With reference to the captioned subject, it is to inform you that the said appeal was placed before Board in its 34th meeting held on 30.08.2018 and 37th Meeting held on 01.12.2018.

The Hon'ble Board did not consider the appeal as the same was not submitted within the prescribed period in terms of regulation 49(1) of Sarva Haryana Gramin Bank (Officers & Employees) Service Regulations 2010 and as such rejected the appeal.”

Though the competent authority accepted the application and decided not to condone the delay vide impugned order, which reads as under:-

“Once the Board has declined to condone the delay, there is no merit in your representation to put up your Appeal again before the Board for reconsideration of condoning the delay.

This is for you information.”

I am of the view that the department should have taken a most reasonable and lenient view, particularly when the delay was only of three days. The delay of three days, in such circumstances, should not have been fatal in deciding the appeal on merits, particularly when the petitioner was imposed a major punishment despite the fact that he has superannuated. A person cannot be deprived of right of appeal on this ground alone.

Accordingly, the impugned order is set-aside. Writ petition is allowed subject to payment of ₹ 5,000/- as costs, to be deposited in the account of the Bar Association of the Punjab and Haryana High Court, Chandigarh. The appeal is restored to its original number. Respondent No.3

is directed to decide the appeal on merits within a period of two months from the date of receipt of certified copy of this order in order to defray the costs of litigation and waste of time.

October 29, 2019
ramesh

(AMIT RAWAL)
JUDGE

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