

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

LPA-1850-2019 (O&M)

Date of decision:- 22.01.2020

Rajesh Kumar Sharma

...Appellant

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE ARUN PALLI**

Present:- Mr. Karanvir Singh Khehar, Advocate,  
for the appellant.

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**RAVI SHANKER JHA, C.J. (ORAL)**

Heard on the application for condonation of  
1439 days' delay in filing the appeal.

This appeal has been filed against an order  
dated 05.10.2015 passed by the learned Single Judge dismissing  
the writ petition being CWP-19857-2009 filed by the petitioner  
(appellant herein) and an order dated 19.09.2019 dismissing the  
application (RA-CW-373-2019) seeking review of the order dated  
05.10.2015.

Learned counsel for the appellant submits that the  
appellant, who is working in the Inspectorate Cadre of the  
respondent-department, had filed the writ petition before this  
Court praying for a direction to the authorities to accept his  
request for withdrawing his option and permit him to give fresh  
option regarding service in the Ministerial Cadre.

The learned Single Judge has taken note of the fact  
that the appellant in fact had exercised his option on  
14.06.2006 and had submitted the same to continue in the  
Inspectorate Cadre with a further stipulation that he was not

willing to be reverted to the post from which he was promoted as Taxation/Excise Inspector. In the petition filed by the appellant before this Court, he sought withdrawal of the option on the ground that the same was obtained from him under duress. The learned Single Judge after examining the pleadings and the documents on record held that the appellant had failed to demonstrate that the option was given by him under duress or that he was forcibly made to give the option and accordingly dismissed the writ petition. The learned Single Judge while doing so also distinguished the previous decisions of this Court in *Nand Lal Sharma Vs State of Punjab*, 1996 (2) S.C.T., 257 and *Ghuman Singh Vs State of Punjab and others*, 1996(2) S.C.T., 259 (CWP Nos. 18627 & 18701 of 1995 - decided on 20.12.1995) on the ground that the facts of the appellant's case are different. Though the appellant had filed a previous appeal being LPA-648-2017 before this Court against the order passed by the learned Single Judge, however, the same was dismissed as withdrawn with liberty to explore other available options as admissible in law. The review application filed by the appellant has also been dismissed by the learned Single Judge on 19.09.2019.

Learned counsel appearing for the appellant submits that he has filed this appeal after a delay of more than four years on the ground that the issue regarding certain similarly situated persons having been granted the benefit by the department, while the same having been denied to the appellant has not been considered by the learned Single Judge. It is submitted that the delay has occurred on account of the fact that since the dismissal of the writ petition by the learned Single Judge on 05.10.2015, the appellant before filing the present appeal had filed various proceedings before this Court.

We have heard learned counsel for the appellant at length, perused the record of the case and considered the application for condonation of delay.

From a perusal thereof, it is apparent that promotions of certain officials belonging to the Ministerial Cadre to the post of Taxation Inspector/Excise Inspector were challenged by some Taxation Inspectors before this Court vide writ petitions No. 16037, 17051, 17666, 18675 and 19221 of 2004 and pursuant to the orders passed therein, the authorities vide letter dated 11.11.2005 had sought options from all the Taxation Inspectors, promoted from Ministerial Cadre as also the appellant, if they were willing to continue in the Inspectorate Cadre permanently or intended to be reverted to the Ministerial Cadre. In response thereto, the appellant vide undertaking dated 14.06.2006, on a prescribed proforma, opted to continue in the Inspectorate Cadre. It was nearly three years thereafter, he sought to withdraw his option and switch to the Ministerial Cadre on the ground that he had signed the same under duress. It is also evident from the record that the fault of submitting the option ultimately came to the knowledge of the appellant after three years when he calculated the financial benefit or loss of the same. Evidently, the learned Single Judge has considered all these aspects and has dismissed the writ petition on the ground that the appellant had given the option with open eyes and had failed to establish that the same had been obtained from him under duress specifically in view of the fact that he not just accepted it, but enjoyed the benefit thereunder for three years.

In the circumstances, we do not find any illegality or infirmity in the order passed by the learned Single Judge.

As a consequence thereof, we do not find any reason to condone the delay.

The application seeking condonation of 1439 days' delay in filing the appeal is dismissed.

As a consequence thereof, the appeal filed by the appellant is also dismissed.

(RAVI SHANKER JHA)  
CHIEF JUSTICE

(ARUN PALLI)  
JUDGE

22.01.2020  
Amodh

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|---------------------------|--------|
| whether speaking/reasoned | Yes/No |
| whether reportable        | Yes/No |