

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 15.01.2020****RSA No.2420 of 2018 (O&M)**

Punjab State Power Corporation Limited & others ...Appellants

Vs.

Jupinder Pal Singh ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Sandeep Vermani and Ms. Gurdeep Kaur, Advocates,
for the appellants.**RAJIV NARAIN RAINA, J. (ORAL)**

1. This appeal by the PSPCL arises out of the judgment and decree passed by the first Appellate Court on 30.11.2016.
2. A delay of 148 days in presenting the appeal has been explained in the application under Section 5 of Limitation Act, 1963 supported by an affidavit in the following words:-

“2. That the certified copy of the judgment and decree dated 30.11.2016 passed by the Addl. District Judge, Bathinda was delivered on 23.01.2017 and thereafter through letter memo No.1928 of 24.01.2017, the legal advice from Legal Section Patiala was sought. After that through memo No.5269 of 08.02.2017 Legal Section advised for implementation of the decision given by Ld. Lower Appellate Court.

3. That thereafter the case was sent to Dy. Secretary Eng-2, Patiala vide memo No.6043 of 26.04.2017 for implementation of the Court order.

4. That a letter memo No.461 of 14.07.2017 was received from the office of Dy. Secretary ENG-2 wherein they have mentioned that the aforesaid matter was discussed with legal

Section, Patiala and it has been advised to file Regular Second Appeal against the judgment and decree dated 30.11.2016.

5. That thereafter a letter regarding appointment of an Advocate for conducting the case vide memo No.11092 of 18.07.2017 was sent to the Legal Section Patiala.

6. That the undersigned was engaged on 01.08.2017 to file the accompanying appeal, after completing all the departmental proceedings i.e. after seeking the legal opinion etc.

7. That the counsel for the appellant received the relevant documents on 09.08.2017. Thereafter the grounds etc. of the present regular second appeal were prepared.

8. That after drafting the grounds of appeal and accompanying applications, the counsel for the appellant forwarded the same to the department on 11.08.2017 for signatures, attestation of affidavits etc.”

3. This stock defence on the part of the agency of the State is legally unacceptable reason or a bona fide explanation for the belated approach preventing the appellants from filing the appeal within the prescribed period of limitation. No sufficient cause for filing the appeal belatedly has been shown which is commensurate with the criterion in Section 5 of the limitation Act for condoning the delay and explanations of this kind has been severely criticised by the Supreme Court in Office of the Chief Post Master General & others Vs. Living Media India Ltd. & another, 2012 (2) S.C.T. 269 where their Lordships have observed as under:-

“(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 redtape 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. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

4. Keeping in view the aforesaid statement of procedural law, I am of the view that the explanation for condoning 148 days delay in filing the appeal offered by the appellants is not worthy of acceptance.

5. Consequently, the application seeking condoning delay in presenting the appeal is declined and as a result the main appeal is dismissed.

15.01.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *YesNo*