

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

CM No.15234-C of 2018 in/and
RSA No.5522 of 2018
Date of Decision:28.1.2020

Malkiat Singh

... Petitioner

Versus

Pepsu Road Transport Corporation, Patiala
and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.G.S.Chahal, Advocate for the appellant

RAJIV NARAIN RAINA, J. (Oral)

1. There is a delay of 656 days in presenting this appeal. The reason attributed, which is alleged to have prevented the appellant from filing the appeal within limitation is set out in paragraph 3 of the application under Section 5 of the Limitation Act, 1963. The application is accompanied by the affidavit of the appellant. Paragraph 3 of the application reads as under:-

“3.That after dismissal of the appeal by the Ld. District Judge, Patiala due to miscommunication and non-communication the same could not be intimated to the appellant well within time by his counsel before the Ld. Courts below and by lapse of time the file got mixed up in other briefs of decided matters and the appellant remained of the view that his appeal is still pending and hence, a delay of 656 days has occurred in filing the present appeal.”

2. There is an irreconcilable gap between the meaning of “miscommunication” and “non-communication” between the appellant and his counsel in the District Courts. This statement is contradicted by the subsequent deposition of the appellant that the file got mixed up with other briefs of decided matters and the appellant remained of the view that the appeal is still pending, which has caused the delay. If the reason assigned is difficult to believe, then it is not necessary for this Court to go into the question of mala fide inaction or delay being intentional or not. Neither is an affidavit of the counsel in the District Courts attached in support of the statements made in paragraph 3 of the application.

3. Accordingly, I find no reason to accept the application for condoning the huge delay of 656 days and would dismiss it and it is ordered accordingly. With the dismissal of the application for condonation of delay, the appeal stands automatically dismissed.

28.1.2020
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No