

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.40 of 2020 (O & M)
Date of Decision: 9.1.2020

Punjab State Power Corporation Limited and others

...Appellants

Vs.

Kuldeep Singh

...Respondent

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

Present: Mr. Sehaj Bir Singh, Advocate,
for the appellants

RAJIV NARAIN RAINA, J (Oral):

1. This appeal by the PSPCL arises out of the judgments of concurrence passed by the courts *a quo* decreeing the suit of the plaintiff-respondent holding him entitled to promotional increment on completing 23 years of service w.e.f. 25.7.2012 with arrears payable from 23.12.2012.

2. A delay of 312 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 judgment was pronounced on 25.10.2018, copy was applied and was delivered on 06.08.2019.

3. That thereafter the case was marked to the undersigned counsel for preferring a Regular Second Appeal on 14.02.2019. It is submitted that there was construction going on in the office of the filling counsel and as such the file was erroneously misplaced and as such there has been a delay in filling of the present appeal.

4. That it is submitted that the present appeal is meritorious and

irreparable loss shall be caused to the respondent Corporation if the delay of 312 days in filling is not condoned. It is again reiterated that the delay is bonafide and not intentional.”

2. 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 & ors. v. Living Media India Ltd. & Anr.***, 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 red-tape 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.”

3. Keeping in view the aforesaid statement of procedural law, I am of the view that the explanation for condoning 312 days delay in filing

the appeal offered by the appellants is not worthy of acceptance.

4. The appeal is dismissed on the ground of delay.

9.1.2020
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No