

Sr. No 104

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

**CM-9804-CWP-2021
CM-9803-CWP-2021 in/and
RA-CW-162-2021 in
CWP-12118-2015**

Date of decision: 08.09.2021

Jai Chand and others

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Anita Balyan, Advocate,
for the applicant-respondent-UOI.

ARUN MONGA, J. (ORAL)

Applicant/respondents seek review of an order/judgment dated 28.02.2019 whereby writ petition filed by the non-applicant/petitioners claiming the benefit of step up/refixation of pay at par with their juniors was allowed.

2. There is a delay of 832 days in filing the review application.

Narrative of reasons pleaded in the accompanied condonation application under Section 5 of the Limitation Act, is as under: -

“2. The certified copy of the order dated 28/02/2019 was duly applied on 07/03/2019 and the same was prepared on 15/03/2019. The copy of the order dated 28/02/2019 was sent to the DIG (Law) Directorate General, CRPF, by the Pairvi Office of North West Sector, CRPF, Chandigarh vide their signal No.J.II.945/2015-Legal dated 13/03/2019 and the same was also provided to the Defending Government Counsel for Union of India for giving legal opinion on the order dated 28/02/2019. The legal opinion of the Govt. Counsel dated 14/03/2019 was received on 17/03/2019 through email and the same was sent to the DIG Law Directorate General, CRPF, on 18/03/2019 through speed post.

x-x-x-x-x-x

10. That accordingly the DIG (Law) Directorate General, CRPF, vide their signal dated 01/05/2020, directed the North West

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I attest to the accuracy and
integrity of this document

Sector, CRPF, Chandigarh to collect the approved notes and file LPA in the Hon'ble Court. Approved notes were received in Pairvi Office of North West Sector on 08/05/2020 through mail.

11. The department approached the office of Ld. Additional Solicitor General of India on 11/05/2020 for engagement of a counsel to file the appeal.

12. That, after engagement of the counsel on 16/05/2020, the department contacted the counsel and handed over the case file along with relevant documents on 21/05/2020 through mail. Since handing over of the records and further necessary inspection of the record pertaining to the writ petition could not be carried out and the same delayed the filing of the LPA in time. Thereafter, the grounds of appeal were prepared but due to lockdown in Chandigarh (U.T.) case file received in the Pairvi office of NW Sector only on 04/07/2020.

13. That, the time consumed on obtaining opinion/approval of competent authority, preparation of grounds of appeal and lockdown/curfew imposed by the State/UT due to pandemic Covid-19, delayed the filing and as a resulting into a cruel of delay thereof a delay has arisen in filing the accompanying review application.

14. That, in the light of above, it is humbly submitted that the movement of file was through various channels which resulted in the delay of filing the said review application.

15. That, the delay is neither intentional nor deliberate and the same has been duly explained with sufficient cause and further no prejudice will be caused to the respondents in case the delay is condoned and the review application is heard and decided on merits."

The aforesaid explanation of delay given in the application seeking condonation thereof does not inspire any confidence. Reason given therein essentially is that certified copy was applied and upon the same being supplied, further steps were taken. Viz, it was referred for legal opinion, thereafter sent to office of DIG (Law) on 18.03.2019, from where it was finally received back on 01.05.2020, knowing fully well that the period for limitation to file review is only 30 days.

4. Of course the delay in receiving the file back from DIG (law) is sought to be justified in para 3 to 10 of the application on the ground that file

remained pending from one desk or the other in one ministry or the other and therefore, the delay from 18.03.19 to 20.05.20. And thereafter part delay was caused due pandemic slowdown, which though seems justifiable, but prior thereto review had already become time barred. Be that as it may, even otherwise, it is a settled proposition of law that by virtue of limitation, vested rights with of litigant cannot be treated in such a manner, so as to divest him of the same. In this context, reliance may be had on the Apex Court judgment rendered in ***Ramlal and others Vs. Rewa Coalfields Ltd.*** reported as ***1962 AIR (SC) 361***. Relevant extract of the same is reproduced here-in-below:

“7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of decree holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge and this legal right which has accrued to the decree holder by lapse of time should not be lightly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the Court to condone delay and admit the appeal. This discretion has been deliberately conferred on the Court in order that judicial power and discretion in trial behalf should be exercised to advance substantial justice.”

5. No doubt, a discretion has been vested with court to condone the delay, provided sufficient cause thereof has been made out. I have already given my mind that reasons given in the application do not really make it out to be a sufficient cause. That apart, having perused the purported justification, I may hasten to add that very mechanical reasons of administrative rigmarole have been given for the same. Almost suggestive, as if, to seek condonation of delay is a matter of right, regardless of the reasons *qua* the same.

6. It is high time that a lax litigant pays the price for casual and nonchalant approach in instituting time bound cases in the Courts, particularly, as enlightened a litigant as Union of India herein which is legally backed up with an entire vertical of department's own law officers giving them advice at every step. Despite the same, if delay is caused at the cost of forfeiture of vested legal right of the opposite party, the same is to be deprecated. Delay is thus akin to a self-goal. Consequences thereof have to be suffered and most certainly, there cannot be any premium on a self-goal.

7. In fact, going a step further, even sufficiency of cause, per se, does not result in any indefeasible legal right. Reference once again may be had on “**Ramlal**” judgment *ibid*, based whereupon, His Lordship R.F. Nariman, J. (as he then was), speaking for Apex Court in **Government of Maharashtra (Water Resources Department) versus M/s Borse Brothers Engineers & Contractors Pvt. Ltd., 2021 SCC OnLine SC 233**, observed as below: -

“60. Also, it must be remembered that merely because sufficient cause has been made out in the facts of a given case, there is no right in the appellant to have delay condoned. This was felicitously put in **Ramlal v. Rewa Coalfields Ltd., (1962) 2 SCR 762** as follows:

It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by S. 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the Court is dealing with applications made under S. 14 of the Limitation Act. In dealing with such applications the Court is called upon to consider the effect of the combined provisions of SS. 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of S.14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under S. 5 without reference to S.14.”

8. As an upshot of the aforesaid, no grounds to interfere for condonation of delay are made out. Dismissed.

9. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 08, 2021
vandana/mahavir

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No