

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

LPA No. 1942 of 2019 (O & M)
Date of decision: 16.12.2021

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State of Punjab and others

....Appellant(s)

Versus

Mandeep Singh

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Pankaj Gupta, Addl. A.G., Punjab.

Mr. S.S. Swaich, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 4419-LPA of 2019

Application has been filed for condonation of delay of 84 days in filing the appeal. The same has been opposed by filing reply.

Keeping in view the quantum of period of delay as such, and the fact that it would be appropriate if the matter is gone into on merits, sufficient cause is made out for condoning the delay.

Accordingly, the application is allowed. Delay in filing the appeal is condoned.

C.M. stands disposed of.

LPA No. 1942 of 2019 (O & M)

Notice of motion.

Mr. S.S. Swaich, Advocate accepts notice on behalf of the respondent.

The present letters patent appeal is filed against the order of the

learned Single Judge dated 24.07.2019.

We have perused the order of the learned Single Judge. Though there is no specific direction to the State as such in favour of the writ petitioner that he be appointed to the post of Clerk in the Backward Class category and the writ petition has been disposed of as having been rendered infructuous. Liberty has also been granted to the writ petitioner that in case he is aggrieved by the non-grant of the benefit of his merit, he may approach this Court by appropriate proceedings. The statement of counsel for the writ petitioner had been accepted that he was sanguine that the appointment would be offered to him in terms of merit.

However, we find that the legal question, as such, has not been answered since the State has, specifically in its reply, taken up the plea that as per the advertisement issued, the last date for submission of the application was 27.09.2016 whereas, notification was issued by the Department of Welfare, Punjab Government on 14.12.2016 (Annexure P-5), which included the petitioner's caste in the Backward Class category. The same was approximately 2-1/2 months after the last date for submission of application.

It is not disputed that the writ petitioner himself had applied for change of category on 29.12.2016 (Annexure P-6) on the ground that he had applied in the general category. Thus, the legal issue as such whether the cut off date would be sacrosanct and whether the decision of the Government as such would relate back in any manner and give the writ petitioner any right to change his category has not been addressed.

In such circumstances, the judgment of the learned Single Judge dated 24.07.2019 cannot be sustained and is accordingly set aside. The

present letters patent appeal is allowed and the writ petition is restored to its original position and be listed before the appropriate Court.

(G.S. SANDHAWALIA)
JUDGE

16.12.2021
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(VIKAS SURI)
JUDGE

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