

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(223)

CRM-13793-2018 in/and
CRM-A-696-MA-2018

Date of Decision : August 31, 2021

Mangat Ram

.. Appellant

Versus

Avtar Singh

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Navjot Singh, Advocate, for the applicant-appellant.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-13793-2018

Present application has been filed seeking condonation of delay of 143 days in filing the present appeal.

The appeal accompanying the application has been filed seeking special leave to appeal against the order of acquittal dated 06.04.2017 passed by the Judicial Magistrate Ist Class, Jalandhar. The only reason cited in the application for the condonation of delay of 143 days is that an appeal was filed in the Court of Judicial Magistrate Ist Class, Jalandhar, and though the said ground has been taken in the application but without giving the details of the said appeal as to when the same was filed and what was the outcome of the same.

Furthermore, the order against which the leave to appeal is being sought, is also passed by the Judicial Magistrate Ist Class, Jalandhar on 06.04.2017. No prudent man will file an appeal before the same authority, who has passed the impugned order. Furthermore, no copy of

appeal stated to have been filed, has been presented along with the application with the details and the data.

The expiry of limitation period for filing an appeal, creates a right in the respondents and the said right can only be taken away on the basis of some cogent reasons and not on the basis of simple bald statements, which are not supported by any evidence.

Proposition of law with regard to the condonation of delay has been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.2474-2475 of 2012 titled as Officer of the Chief Post Master General and others versus Living Media India Ltd and another, decided on 24.02.2012.** In paragraph 13 of the said judgment, it has been held that even the State and its instrumentalities while filing an application for condonation of delay, have to show sufficient cause for the delay, before the same can be condoned. The Hon'ble Supreme Court of India has further held that mere explanation that the delay caused was due to procedural process or was unintentional, without any supporting evidence, cannot be accepted. The relevant paragraph of the judgment is 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.”

Recently, again the Hon'ble Supreme Court of India held that the condonation of delay application filed in a casual manner without cogent or plausible ground cannot be accepted. The Hon'ble Supreme Court of India while deciding **SLP No.19846 of 2020 titled as Union of India versus Central Tibetan Schools Admin and others on 04.02.2021**, has held as under:-

“6.The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No.22605/2020 decided on 11.01.2021]. The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by

the judgment of this Court in [Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr.](#) – (2012) 3 SCC 563. Despite this, there seems to be a little change in the approach of the Government and public authorities.

7. xxx xxx xxx xxx xxx xxx

8. *Looking to the gross negligence and the impunity with which the Union of India had approached this Court in a matter like this, we consider it appropriate to impose special costs of Rs.1 lakh in this case to be recovered from the concerned officer(s), to be deposited with the Supreme Court Advocates on Record Welfare Fund within four weeks.”*

In the present case, no reason has been given justifying the delay of 143 days.

Keeping in view the above, the application seeking condonation of delay of 143 days is dismissed.

CRM-A-696-MA-2018

As the application seeking condonation of delay of 143 days in filing the appeal is dismissed, the appeal automatically stands dismissed not being within limitation as provided.

August 31, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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