

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

**CRM-9980-2020 in/and
CRM-A-451-2020
Date of Decision: 12.12.2022**

State of Punjab

.....Appellant(s)

Versus

Gurpreet Singh @ Gopi

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Arjun Sheoran, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The present application for grant of leave to appeal against judgment dated 16.01.2019 has been filed, which is barred by 302 days in filing the same.

In the application for condonation of delay, it has been mentioned that the trial Court had passed the judgment on 16.01.2019 and the same was applied on the next day i.e. on 17.01.2019 and prepared on 22.01.2019. The District Attorney, Gurdaspur sent the proposal for filing the appeal on 30.01.2019 which was examined by the Director, Prosecution and Litigation on 13.02.2019. The opinion of the Advocate General, Punjab was sent on 18.02.2019 and received on 21.02.2019. An opinion was only tendered on 21.05.2019. The same was sent to the Government on 23.05.2019 and sanction was given on 31.05.2019 and the case was put up before the Advocate General for drafting the grounds of appeal on 03.06.2019. The delay thereafter is inordinate, which as per para No.8, reads thus:-

“8. That, the office of A.G. Punjab has informed Police Department, Sr. Superintendent of Police, Police District Batala on 6.6.2019, 6.7.2019,

20.07.2019, 28.08.2019, 01.11.2019, 04.11.2019 regarding draft of ground of appeal and application, affidavits for condonation for delay and in support of grounds of appeal. Draft of ground of appeal, application/affidavit were prepared concerned department on 28.01.2020. The same was vetted by the Ld. Law Officer on 29.01.2020 after that all the relevant formalities has been completed and the case is filed.”

Apparently, from the above dates, it would be clear that there was no interest shown by the concerned officials and for a period of almost 5 months, the Advocate General was communicating that the appeal is to be filed. The same was eventually filed on 15.02.2020, almost more than a year later.

We are, thus, of the considered opinion that keeping in view the settled principle that the Government cannot be placed at a better pedestal and seek condonation of delay and the concept of liberal approach cannot be granted to it, no case is made out for condonation of delay as no sufficient cause has been shown as to why for 5 months, no action was taken in spite of the fact that the Advocate General as such was constantly writing to the concerned officials. Reliance can be placed upon the judgments of the Apex Court in ***Office of the Chief Post Master General and others vs. Living Media India Ltd. and another, 2012 (2) SCT 269*** and ***Oriental Aroma Chemical Industries Ltd. vs. Gujarat Industrial Development Corporation and another, (2010) 4 SCC 459***. In *Chief Post Master's case*, it has been held as under:-

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of

limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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.”

Accordingly, keeping in view the above, the application for condonation of delay as well as the application for grant of leave both stand dismissed.

(G.S. SANDHAWALIA)
JUDGE

12.12.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No