

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

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LPA No.668 of 2022 (O&M)
Date of Decision: August 16th, 2022

Mahadev Mandal

...Appellant

Versus

Presiding Officer, Industrial Tribunal, Patiala and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Gautam Kaile, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-1552-LPA-2022

Prayer in this application is for condonation of delay of 34 days in re-filing the appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit of the applicant-appellant, the same is allowed.

Delay of 34 days in re-filing the appeal stands condoned.

LPA No.668 of 2022

Challenge in this appeal is to the judgment dated 29.04.2022 passed by the learned Single Judge, whereby the writ petition preferred by the appellant challenging the denial of reinstatement in service with all consequential benefits but instead paying him a fixed lump sum amount of compensation of ₹30,000/- along with interest at the rate of 6% per annum, has been dismissed, whereas the writ petition preferred by the respondent-management challenging the grant of such compensation along with interest has been allowed by holding that it was indeed not a case where the employee had been retrenched, rather the employee had abandoned service.

2. It is the contention of learned counsel for the appellant that the appellant is ready and willing to join service. He further contends that although the appellant had been making an effort to rejoin his services but because of the fact that the respondent-management did not allow him to enter the premises, he could not take up the assignment. Even after the accident had taken place, his admission to the hospital and, therefore, having granted the fitness certificate, the appellant had been approaching the respondents but without any result and, therefore, the findings as recorded by the Labour Court as well as the learned Single Judge are unsustainable.

3. This contention of learned counsel for the appellant cannot be accepted in the light of the categorical finding given by the Labour Court as also the learned Single Judge that there is no evidence which would substantiate the contention with regard to the appellant having ever approached the respondents for joining service after he was granted the fitness certificate, rather the findings recorded are that the terminal benefits which were paid to the appellant were under his signatures upon a revenue stamp which were produced before the Labour Court. The signatures thereon have not been disputed by the appellant. An explanation although has been put forth that his signatures were obtained on blank papers but there is no evidence to substantiate such a contention. Another aspect which has weighed in the mind of the Court is that the appellant had categorically refused to join the services despite the learned Single Judge having called the appellant and asked him to now rejoin the services which he refused by stating that until he is granted the back wages from the date of his termination till date, he would not do so. This aspect has also been found to

be not in consonance with the pleadings, especially when it appears that the appellant was interested in money alone and not in the job which he was performing and was being offered to him. A finding has been recorded by the learned Single Judge that it is a case of abandonment of service which is based upon the pleadings, evidence and circumstances and the actual factual position as it existed before the Court having been so stated in the order do not call for any interference in the present appeal.

4. The appeal being devoid of merit stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

August 16th, 2022
Puneet

(ALOK JAIN)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No