

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CR-3103 of 2019 (O&M)
Date of decision: 13.12.2022

Pritam Chand

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.K.Chauhan, Advocate, for the petitioner.
Mr. Sandeep Chopra, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

This revision petition has been filed challenging the order dated 23.01.2019, passed by the Additional District Judge, Hoshiarpur, while condoning the delay of 180 days in filing the appeal. The court has found that the explanation furnished for seeking condonation of delay of 180 days is sufficient to condone the same.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The respondents while filing the application under Section 5 of the Limitation Act, 1963, had asserted as under:-

“3. That the S.D.O. Shah Nehar Extension Mechanical Sub-Division No.3, Hoshiarpur, vide his office letter no.256-57/Court Case, dated 22.11.2017 (copy attached as Annexure D-1) has requested the Authority under the Payment of Wages Act, 1936 and Assistant Labour Commissioner, Hoshiarpur, to supply certified copy of the order dated 13.12.2017. The copy of proof attached as Annexure D-2.

4. That the S.D.O. Shah Nehar Extension Mechanical Sub-Division No.3, Hoshiarpur, was instructed by the Executive Engineer, S.N.E., Mechanical Division, Hoshiarpur vide letter no. 2513/Pritam Chand Fitter,

dated 14.12.2017 (copy attached as Annexure D3) to send the explanatory memo along with his comments for further necessary action. The same was sent to the division office by the S.D.O. Shah Nehar Extension Mechanical Sub-Division No.3, Hoshiarpur, vide letter No.282/Court Case, dated 27.12.2017 (copy attached as Annexure D4).

5. That the Superintending Engineer, Kandi Canal Circle, Hoshiarpur, was requested by the Executive Engineer, S.N.E. Mechanical Division, Hoshiarpur, firstly vide letter No.1283-83/Court Case Pritam Chand Fitter, dated 28.12.2017 (copy attached as Annexure D5) and then vide letter no.25/26/Court Case Pritam Chand Fitter, dated 11.01.2018 (copy attached as Annexure D6) to arrange the sanction of the competent authority for filing appeal and get the instructions issued by the Director, Prosecution & Litigation and Additional Secretary to Govt. of Punjab, Chandigarh to the District Attorney, Hoshiarpur, to file the appeal on behalf of the Govt.

6. That in turn the Chief Engineer, KAD, Irrigation Department, Punjab, Chandigarh, was requested by the Superintending Engineer, Kandi Canal Circle, Hoshiarpur vide his office letter no.100-101/10-M (586-A), dated 15.01.2018 (copy attached as Annexure D-7) and vide letter no.125-26/10-M (586-A) dated 18.01.2018 (copy attached as Annexure D8) for getting the sanction of the competent authority for filing appeal and to get the instructions issued by the Director, Prosecution & Litigation and Additional Secretary to Govt. of Punjab, Chandigarh to the District Attorney, Hoshiarpur, to file the appeal on behalf of the Govt.

7. That the sanction to file appeal was issued by the Chief Engineer, KAD, Irrigation Department, Punjab, Chandigarh, vide endorsement No.57, dated 23.01.2018, and the Director, Prosecution & Litigation and Additional Secretary to Govt. of Punjab, Chandigarh to the District Attorney, Hoshiarpur, to file the appeal on behalf of the Govt.

8. That the necessary instructions have been issued to the District Attorney, Hoshiarpur to file appeal by the Director, Prosecution & Litigation and Additional Secretary to Govt. of Punjab, Chandigarh vide his office memo no.968/CO.5(11) 2018 dated 28.02.2018 which was received in the division office vide endorsement no.1048/10-M(586), dated 05.03.2017 (copy attached as Annexure D-9) of the Superintending Engineer, Kandi Canal Circle, Hoshiarpur.

9. That although the sanction of the competent authority and necessary instructions were issued but it was apprised by the Government pleader that appeal can

only be filed after depositing the amount awarded with the Authority. The funds amounting to Rs.4,13,100/- had been demanded from the Govt., the same could not be released in the Financial Year 2017-18. The funds were again demanded from the Govt. in the current Financial Year 2018-19 and the same has been released vide letter/endorsement No.2852/10-M(58-A) , dated 17.05.2018 (copy attached as Annexure D-10).

10. That the Executive Engineer, S.N.E. Civil Division< Hoshiarpur, was requested by the Executive Engineer, S.N.E. Mechanical Division, Hoshiarpur, vide letter No.791-92/Court case Pritam Chand, dated 21.05.2018 (copy attached as Annexure D-11) to send the bill to the District Reasury Officer, Hoshiarpur, for making available the cheque/draft in the name of the authority i.e. the Assistant Labour Commissioner, Hoshiarpur and that office has sent the bill No.72, dated 25.05.2018 for the above purpose to the District Treasury office, Hoshiarpur.”

In view of the judgment passed by the Supreme Court in **G.Ramegowda Major vs. Special Land Acquisition Officer, Bangalore, 1988 (2) SCC 142**, the public authorities are required to be shown extra indulgence in such matters. The First Appellate Court has exercised its discretion which is not shown to be suffering from any material error.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

December 13, 2022
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(ANIL KSHETARPAL)
JUDGE

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

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