

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

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**CM-2231-LPA-2020 in/and
LPA No.805 of 2020 (O&M)
Decided on: 27.04.2022**

State of Haryana and others

... Appellants

Versus

Satish Kumar and others

... Respondents

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

Present: Mr. Hitesh Pandit, Addl. AG, Haryana.
for the appellants.

Mr. R.K. Malik, Senior Advocate with
Mr. Sunil Hooda, Advocate for the respondents.

G.S. Sandhawalia, J.(Oral)

The present letters patent appeal, barred by 640 days, is against the judgment of the learned Single Judge dated 17.05.2018 passed in **CWP No.27199 of 2015 'Satish Kumar and others Vs. State of Haryana and others'** and the order dated 16.11.2019 passed in RA-CW-305-2019.

The ground as such for making out sufficient cause is that an opinion had been taken on 27.11.2019 and even the Advocate General's Office opined on 07.12.2019 that it was a fit case for filing the appeal. The same could not be filed on account of National Lockdown ordered on 24.03.2020 on account of Covid-19. In such circumstances, there was a delay of 640 days in filing the appeal.

It is a matter of record that the appeal was only filed on 09.11.2020. In the reply filed by respondent No.3, who is stated to be the only contesting respondent, the objection taken is that no ground for condonation of delay is made out. Reliance has been placed upon the order

dated 24.07.2018 dismissing **LPA No.853 of 2017** titled as '**State of Haryana Vs. Usha Rani**', which is stated to be in similar circumstances on the ground of delay. Admittedly the amounts have been disbursed to others as noticed vide order dated 11.11.2020 by the Coordinate Bench.

A perusal of the paper-book would go on to show that the dispute as such is regarding the payment of the minimum of the pay scale which would accrue to the writ petitioners on account of the judgment of the Full Bench of this Court in '**Avtar Singh Vs. State of Punjab and others**' 2012 (2) SCT 31 (Annexure P-4). The learned Single Judge was dealing with the order dated 28.09.2015 (Annexure P-7), wherein the claim as such was denied on the ground that respondent No.3 herein had been appointed on contract basis and had joined on 12.09.2012 as per the Advertisement No.6/2012. Having accepted the conditions and joined the duties in the Institute, it was held that his application was not liable to be acted upon. The said denial reads as under:-

“Subject : Re-fixing the salary for the post of Office Superintendent.

Reference Your application dated 10.8.15 on the subject cited above.

You were appointed as Supdt, (on contract basis) in this institute and joined on 12 Sep 2012. As per advt. No.6/2012 you are appointed on DC rates and you are being paid the DC rates as increased from time to time. This was also made clear in the appointment letter No.BPS/ME-III/2012/2326 dated 10.9.12. Therefore you

accepted the conditions of appointment letter and joined the duties in this institute. Comparing with other institutes can not be accepted hence your application has been filed unactioned.”

As noticed, it is not disputed that similarly situated persons belonging to the same institute, who were writ petitioners as many as 20 in number alongwith the said respondent, have been given the benefit during the pendency of the present letters patent appeal in view of '**State of Punjab Vs. Jagjit Singh**', 2016 (4) SCT 641, which had been relied upon by the learned Single Judge.

Counsel for the State has mainly attempted to show that respondent No.3 was not qualified to hold the post of the Superintendent. We have already reproduced the impugned order whereby his case had been rejected. The said order does not even have a whisper to the said facts for denial. It is settled principle that an order has to give reasons for denial. Neither such plea was taken in the written statement. Reliance upon the grounds in the review application as such to make out a fresh case had been rightly rejected by the learned Single Judge.

In such circumstances, we are of the opinion that, as per the settled law, stand taken in the review application cannot substitute the lack of reason in the administrative order. The Apex Court in **Mohinder Singh Gill & another Vs. The Chief Election Commissioner, New Delhi & others**, (1978) 1 SCC 405, held that the grounds for denial have to be mentioned in the impugned order and cannot be supplemented by fresh reasons by way of an affidavit.

The said view was followed in **Dipak Babaria & another Vs. State of Gujarat & others, (2014) 3 SCC 502** and **State of Punjab Vs. M/s Bandeep Singh & others, (2016) 1 SCC 724**.

Resultantly, we are of the considered opinion that once similarly situated persons have been granted the benefit, the State is bound by the provisions of Article 14 of the Constitution of India and cannot take a different stand for similarly situated persons. Additionally, there is no merit in the application for condonation of delay. Before the lockdown there was sufficient time for filing of an intra-court appeal, limitation for which is 30 days. Even thereafter, when the Court had resumed functioning for 5 months, no appeal was preferred though other work was being attended to and the same was filed only after inordinate delay on 09.11.2020. Thus, no sufficient cause is made out to condone the delay.

Accordingly, application is bereft of merit. Resultantly, both the application for condonation of delay and appeal are dismissed. All pending civil miscellaneous applications also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

April 27, 2022
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No