

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

CR-4097-2022

Date of decision : 14.10.2022

Dharam Pal

...Petitioner

Vs.

**The Additional Chief Secretary
to Govt. of Haryana, Ministry of
Transport Department, Chandigarh and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ramandeep Singh, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioner (workman) has filed this petition under Article 227 Constitution of India for setting aside the order dated 29.01.2021 (Annexure P-7), whereby his application for restoration of appeal bearing No.CA-216/2015 has been dismissed.

Learned counsel for the petitioner submits that against the decision dated 25.02.2015 passed under the Payment of Wages Act, 1936, by the competent authority Rewari, dismissing his claim application, he preferred appeal before the Additional District Judge, Rewari and the same was dismissed in default on 15.04.2017, as no one had appeared on behalf of the appellant. He submits that subsequently an application was filed by the petitioner seeking restoration of the appeal, however, through the impugned order dated 29.01.2021, the same has been dismissed. According to him, the application has been dismissed only on the ground of delay by brushing aside the explanation given by the petitioner. He submits that on 05.04.2017,

petitioner's daughter was operated upon at G.M.C.H. Sector-32, Chandigarh, who was seriously ill, therefore, the petitioner along with his wife was attending his ailing daughter and instructions in this regard had been given to the counsel. According to the learned counsel, later on, the counsel informed that the appeal has been dismissed. He prays that the impugned order be set aside and the appeal be restored to its original number.

Learned counsel for the State while opposing the prayer has argued that the application was moved after a long delay, which is not supported with any sufficient explanation, therefore, the appellate Court after examining the entire background of the case has rightly declined to restore the case. He prays that the petition be dismissed.

After hearing learned counsel for the parties and considering the above background, this Court finds that on 15.04.2017, the appellant was not represented, but on the said date, even respondent was also not represented. Therefore, even if appellant or his counsel would have appeared, no effective proceeding could have taken place in the absence of the respondents. As far as the ailment of the petitioner's daughter is concerned, the same is not disputed as the stand of the applicant-petitioner in this regard has not been rebutted by respondent by leading any evidence. Apart from it, a perusal of the impugned order reveals that the appellant is represented through a Legal Aid Counsel, whose absence on 15.04.2017 is well explained.

Thus, even if the application seeking restoration of the appeal was filed with some delay, the same deserves to be condoned as according to the petitioner, application for restoration was sent through post. A perusal of the impugned order reveals that the appellate Court has refused to restore the

appeal only for lack of sufficient explanation in delay behind the filing of the application.

Resultantly, considering the above facts, circumstances, particularly the claim made by the petitioner, the revision petition is allowed and the impugned order dated 29.01.2021 is set aside and his appeal is restored to its original.

(MANOJ BAJAJ)
JUDGE

14.10.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No