

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

LPA No. 1324 of 2018 (O & M)

Date of decision: 01.06.2022

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The Yamuna Nagar Central Cooperative Bank

....Appellant(s)

Versus

Anita Rani and others

....Respondent(s)

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

Present: Mr. Sachin Gupta, Advocate,
for the applicant.

Mr. R.K. Chaudhary, Advocate,
for respondent No.1.

Ms. Palika Monga, DAG, Haryana.

Ms. Sidhi Bansal, Advocate,
for Mr. Pardeep Solath, Advocate,
for respondent No.4.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 3596-LPA of 2018 has been filed for condonation of delay of 434 days in filing the appeal, which has been filed against the judgment of the learned Single Judge dated 11.05.2017 passed in CWP No. 22060 of 2013, Anita Rani vs. State of Haryana and others.

The application has been opposed by filing reply by respondent No.1 on the ground that no sufficient cause is made out and the appeal being barred by limitation, the same is not liable to be entertained. It is submitted that neither the appellant has placed on record any documents, resolution or minutes of the meeting to explain the delay as such which has occurred.

A perusal of the application would go on to show that the only sufficient cause which is sought to be made out is that the resolution was passed to give the amount to the writ petitioner (respondent No.1 herein) but she had refused to deduct the amount of recovery. Therefore, the appellant-Bank had again placed the matter before the Board of Directors meeting and resolution was passed to file the appeal before this Court. No necessary details have been given as to when the meeting was held or resolution was passed. Apparently, the delay as such of considerable period is not liable to be condoned in the absence of the explanation keeping in view the settled principle 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.***

Relevant portion of which reads thus:-

“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.”

Even otherwise, we are of the considered opinion that the relief which has been prayed for before the learned Single Judge was for revision of the pay for the period the employee was in service from 01.01.1996 till 03.05.2002, which had been declined to him only on account of the fact that

there were disciplinary proceedings pending against him. Eventually, the employee was dismissed but for the period he remained in service, the benefit of revision could not have been denied to him.

A perusal of the file would go on to show that the employee died only on 13.03.2011 and during his lifetime as such, apparently no effort was made to recover the amount due from him.

In such circumstances, keeping in view the fact that there is considerable delay as such which has not been properly explained, we are of the considered opinion that the appellant has been negligent in pressing its legal remedy and the legal representatives of the deceased-employee cannot be foisted to defend the belated litigation. The bank cannot be placed at a better pedestal than a normal litigant and it should have been more diligent regarding the litigation it had to pursue.

Accordingly, keeping in view the above, the application for condonation of delay as well as the main appeal stand dismissed.

(G.S. SANDHAWALIA)
JUDGE

01.06.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No