

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

**CM-4784-LPA-2018 in/and
LPA-1853-2018 (O&M)
Decided on : 16.09.2022**

State of Punjab and others

...Appellants

Versus

Sunil Kumar Sharma & others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE JAGMOHAN BANSAL**

Present: Ms. Deepali Puri, Addl. AG, Punjab, for the appellants.

Mr. R.K. Arora, Advocate for respondent Nos. 1 to 22 & 24
to 45.(Applicants in CM No. 2690-LPA of 2019)

Ms. Alka Chatrath, Advocate, for the applicants-Interveners/
proposed respondent Nos. 46 to 86 (CM No. 1352-LPA of 2019)

Mr. Rajan Singh Dadwal, Advocate
for the applicants-Interveners / proposed respondent
Nos. 87 to 91 (CM No. 2745-LPA of 2019).

G.S. Sandhawalia, J. (Oral)

Application for condonation of delay of 195 days in filing the
appeal has been filed against the order dated 19.02.2018 passed in **CWP
No.4629 of 2012 ‘Sunil Kumar Sharma and others Vs. State of Punjab
and others’** by the learned Single Judge.

The reasons given in the application are that the order was
received in the concerned branch on 03.05.2018 and the matter was taken
up with the Advocate General, Punjab on 19.06.2018 and reminders were
issued on 02.08.2018, 29.08.2018 and 14.09.2018. It has further been
averred that on account of huge financial complications being involved the
Administrative Department vide letter dated 21.09.2018 was requested to
grant sanction for filing the appeal, which was received on 17.10.2018
and, thereafter, the draft was prepared and thus, the delay has occurred, as

the appeal was filed on 21.11.2018.

The financial implications which are stated to be involved is that the benefit of previous service rendered by the writ petitioners in Government Aided Schools towards fixation of their pay in the Government Schools with all consequential benefits has been granted.

Surprisingly, it is to be noticed being aware of the said financial implications the State has chosen not to file appeals in the connected writ petitions which were decided by a common order by the learned Single Judge, who decided 8 writ petitions. Rather in the index it has been categorical averred that no LPA has been filed in CWP Nos.7518, 10442, 19266, 24778 of 2012, CWP Nos.11933, 15774 of 2013 and CWP No.25274 of 2015, which were also decided when the impugned judgment was passed.

Application has been opposed by filing reply as to the fact that there is a inordinate delay of more than six months and the State cannot be permitted to take advantage of its own wrong. Reliance has been placed upon the judgment of the Apex Court passed in '**Chief Post Mater General & others Vs. Living Media India Ltd. & another**', (2012) 3 SCC 563.

We are of the considered opinion that the filing of letters patent appeal in one case while knowing that the issue would also cover the employees who had filed other writ petitions is a ground itself to dismiss the present application. As apparently, even if this issue is to be decided in favour of the State, the other writ petitioners would not be bound by the decision as they are not party to the litigation and would be entitled to enforce the decision passed by the learned Single Judge. It would raise a anomalous situation where two similarly placed set of persons would be placed differently to the extent that one lot would be

entitled to the enforcement of the order of the learned Single Judge, whereas the others would have disadvantage of the order on account of the appeal having been filed by the State. It is also to be noticed that on account of the interim order passed by the Coordinate Bench in the present case, 41 persons have filed application for intervening effectively and seek directions for grant of benefit of previous service rendered by them in Government Aided Schools, which has been also allowed by the learned Single Judge in CWP No.19266 of 2012 and CWP Nos.11933 and 15774 of 2013 in the same terms.

In such circumstances, we are of the considered opinion that firstly the delay has not been sufficiently explained regarding the procedural aspect on the benefit of which sufficient cause is made out as such. Resultantly, keeping in view the settled principle that the State cannot be placed at a better footing and seek condonation of delay on account of its own wrong, we are of the considered opinion that the delay in filing the present appeal is not liable to be condoned as the State cannot be allowed to file appeals selectively. Accordingly, application for condonation of delay of 195 days in filing the appeal is dismissed and the main appeal also stand dismissed. All pending civil miscellaneous application (s) are also stand disposed of. It is open to the State to fix the responsibility on the concerned person(s) for the lapse which has occurred.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

16.09.2022
Naveen

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