

RA-LP-30-2022(O&M)
IN LPA-426-2016

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110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-LP-30-2022(O&M)

IN LPA-426-2016

Date of Decision: 29.10.2022

STATE OF HARYANA AND OTHERS

..... Appellants

Versus

ZILE SINGH

..... Respondents

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

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

G.S.SANDHAWALIA, J. (Oral)

The application for review of the judgment dated 18.03.2016 alongwith the application has been filed to condone the delay of 1642 days in the filing review application, if calculated from decision of this Court and 1081 days if calculated from the decision of the Hon'ble Supreme Court. It is not disputed that against the judgment which is sought to be reviewed SLP (C) No.6069 of 2017 was filed. However, it was dismissed on the ground of limitation itself on 13.09.2019 but the State continues to persist in its efforts.

The present review application has been preferred and filed thereafter, admittedly after 1081 days as per the application itself, having been filed on 19.10.2022. However, the delay cannot be treated to be inadvertent and merely because of an opinion has been received from the Office of Advocate General, Haryana on 03.08.2021, which is also after a period of almost two years from the date dismissal of the abovesaid SLP, the same could not be considered as a ground to condone the delay as the State cannot be put at different footing as such for its own negligent and

indolent acts. Reliance can be placed upon the judgment of the Apex Court in '**Office of the Chief Post Master General & others Vs. Living Media India Ltd. & another**' (2012) 3 SCC 563 wherein, it was held that the law of limitation binds everyone including the Government and in the absence of any proper explanation, the delay was not liable to be condoned, which was of 427 days. Relevant portion of the said judgment reads as under:-

“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.”

It is also pertinent to notice that the case pertains to the retiral benefits of a retired Class-IV employee, who is fighting for his legitimate claims since the date when the learned Single Judge had decided in his favour on 17.03.2015.

In such circumstances, we are of the considered opinion that the State is not liable to be heard on account of the inordinate delay. Accordingly, the present application as well as review application are dismissed.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

29.10.2022
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