

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on : 22.02.2023
Date of Pronouncement: 13.03.2023

1.

CM-814-LPA-2020 in/
LPA-301-2020 (O&M)

State of Haryana

Versus

Ram Rattan and others

....Appellant.

...Respondents.
2.

CM-478-LPA-2021 in/
LPA-187-2021 (O&M)

State of Haryana

Versus

Mahipal Singh and others

....Appellant.

...Respondents.
3.

CM-585-LPA-2021 in/
LPA-215-2021 (O&M)

State of Haryana and others

Versus

Mohinder Singh Malik and others

....Appellants.

...Respondents.
4.

CM-565-LPA-2021 in/
LPA-209-2021 (O&M)

State of Haryana and others

Versus

Phool Kumar and others

....Appellants.

...Respondents.
5.

CM-570-LPA-2021 in/
LPA-210-2021 (O&M)

State of Haryana and others

Versus

Brij Lal and others

....Appellants.

...Respondents.
6.

CM-526-LPA-2021 in/
LPA-199-2021 (O&M)

State of Haryana and others

Versus

Manoj Kumar and others

....Appellants.

...Respondents.

**CM-814-LPA-2020 in/and
LPA-301-2020 (O&M) and other connected cases** **2**

**7. CM-530-LPA-2021 in/and
LPA-200-2021 (O&M)**

State of Haryana and others	Appellants.
Versus	
Saroj Devi and others	...Respondents.

**8. CM-539-LPA-2021 in/and
LPA-202-2021 (O&M)**

State of Haryana and another	Appellants.
Versus	
Rajinder Singh and others	...Respondents.

**9. CM-502-LPA-2021 in/and
LPA-195-2021 (O&M)**

State of Haryana and others	Appellants.
Versus	
Devender Sachdeva and others	...Respondents.

**10. CM-2381-LPA-2021 in/and
LPA-1007-2021 (O&M)**

State of Haryana and another	Appellants.
Versus	
Subhash Chander Aggarwal and others	...Respondents.

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

.....

Argued by: Mr. Ravi Dutt Sharma, DAG, Haryana
for the appellant.

Mr. Prince Pushpinder Rana, Advocate for
Mr. R.N. Lohan, Advocate
for respondents No.3 to 5 (in LPA-187-2021)
for respondents No.13 to 15 (in LPA-301-2020).

Mr. Puneet Gupta, Advocate and
Mr. Ravindra Singh, Advocate
for respondent No.1 (in LPA-1007-2021).

Mr. Ashish Gupta, Advocate for
Mr. Prateek Mahajan, Advocate
for respondents No.24 & 25 (in LPA-210-2021).

Mr. Dinesh Kumar, Advocate with
Mr. Arvind Galav, Advocate
for respondents No.1 to 9, 11 to 20, 22 to 26, 29 to 32, 34, 35,
37, 38, 41 to 53, 55, 57 to 59, 61 to 64, 66 to 68, 70, 71, 73, 74,
76 to 80, 83, 85, 87 to 89, 91 to 95, 98, 99, 101 to 106, 109 to
112, 114, 115, 118, 119, 122 to 125, 127, 128, 133, 135, 137 to
140, 143, 146 to 148, 155 to 157, 159, 161 to 164 & 166
(in LPA-195-2021)
for respondents No.1, 2, 4 to 8, 10 to 12 (in LPA-301-2020).
for respondents No.1 to 75 (in LPA-209-2021)
for respondents No.1 to 3, 5, 7 to 12 (in LPA-202-2021)
for respondents No.1 to 5, 7, 8, 11, 20 (in LPA-210-2021).

Mr. Ramesh Malik, Advocate
for the respondents (in LPA-215-2021).

Mr. Parth Goyal, Advocate for
Mr. Anurag Goyal, Advocate for respondents-M.D.U
(in LPAs-199, 200, 201, 209 and 215-2021).

Mr. Mehak Sharma, Advocate for
Mr. Dhiraj Chawla, Advocate
for respondents No.2 and 3 (in LPA-301-2020)
and (in LPA-1007-2021).

SUKHVINDER KAUR, J.

These LPAs as detailed in the head note, have been preferred
by the appellant-State of Haryana, Department of Education, being
aggrieved against the common judgment dated 15.07.2019 passed by the
learned Single Judge in various writ petitions:- (1) CWP-19988-2011 Ram
Rattan and others V/s. State of Haryana and others (2) CWP-16586-2012
Subhash Chander Aggarwal V/s. GJU of SC & TECH & others (3) CWP-
4293-2015 Devender Sachdeva and others V/s. State of Haryana and others
(4) CWP-12624-2015 Brij Lal and others V/s. State of Haryana and others
(5) CWP-18488-2015 Manoj Kumar and others V/s. State of Haryana and
others (6) CWP-19370-2015 Phool Kumar and others V/s. State of Haryana
and others (7) CWP-20353-2015 Mohinder Singh Malik and others V/s.

State of Haryana and others (8) CWP-21145-2015 Rajinder Singh and others V/s. State of Haryana and others (9) CWP-245-2016 Mahipal Singh and another V/s. State of Haryana and others (10) CWP-6833-2016 Saroj Devi and others V/s. State of Haryana and others.

The petitioners sought a writ in the nature of certiorari for quashing the impugned order dated 20.03.2013 (Annexure P-7 in CWP20353-2015) whereby, grade pay of Rs.3200/- w.e.f. 01.01.2006 has been granted after withdrawing the grade pay of Rs.3600/- and order dated 29.09.2014 (Annexure P-10 in CWP-20353-2015) vide which letter dated 05.09.2014 (Annexure P-9 in CWP-20353-2015) granting the revision of Grade Pay from Rs.3200/- to Rs.3600/- to the Assistants working in the State Universities including respondent Maharshi Dayanand University, Rohtak w.e.f. 01.01.2006 has been withdrawn.

Vide the impugned judgment, the writ petitions were allowed and impugned orders dated 20.03.2013, 05.09.2014 and 29.09.2014 (Annexures P-7, P-9 and P-10 in CWP-20353-2015) were quashed.

As there was delay in filing of all these LPAs, so it has been sought to be condoned by moving an application under Section 5 of the Limitation Act, 1963, in each appeal. It has been averred in these applications that there was no intentional delay or laches on the part of the applicants rather the delay whatsoever has occurred, is procedural and to explain the same certain dates have been mentioned in these applications which are being reproduced in a tabular form in Annexure A-1 attached with this judgment and the same be read as its part and parcel.

After taking us through the grounds mentioned in the applications, it has been submitted by counsel for the appellant that the

delay in filing of these LPAs may be condoned as the same was neither intentional nor deliberate but due to the lengthy departmental procedure.

The applications have been opposed by filing the written reply by the writ petitioners in LPA-301-2020, LPA-209-2021 and LPA-195-2021.

It has been alleged in the reply that the department took no steps to apply for certified copy of the impugned judgment within the limitation period. It has been further averred that the entire approach of the department was just casual; after expiry of limitation period the rights of the petitioners/respondents have attained finality and the applicant/department cannot be allowed to take the benefit of its own wrong, in filing the appeal with such a long delay.

In support of their submissions, learned counsel for the respondents have also relied upon the decision of Hon'ble Supreme Court in *Office of the Chief Post Master General and others Vs. Living Media India Ltd and another*, reported in *2012 (2) S.C.T, 269 SC*; *State of Haryana and others Vs. Neelam Rani and others*, reported in *2016 (4) S.C.T. 430*; *Union of India Vs. Nripen Sarma* reported in *2011 AIR (SC) 1237* and *Pundlik Jalam Patil (d) by Lrs Vs. Exe. Eng. Jalgaon Medium Project* reported in *2008 (4) RCR (Civil) 885 SC*.

Learned counsel for the respondents seriously objected to the conduct of the appellants in approaching this Court after this enormous and inordinate delay. They have contended that there is no sufficient cause for condoning the delay and the present applications are liable to be dismissed.

Admittedly, the limitation for filing an *intra* Court appeal is 30 days. The applicant-appellant for the purpose of taking the advantage of

Section 5 of the Limitation Act has to assign sufficient cause for the purpose of extension of time. The term 'sufficient cause' is not defined in the Act, but it has to be seen from the facts and circumstances of each case, while considering the request for extension of time. In the present matter, the copy of the impugned judgment was downloaded from the website of the High Court, after more than a month, from the date of passing of the impugned judgment, as is evident from the above said table. Thus, no steps were taken within the limitation period even to apply for the copy of the impugned order. Thereafter, the matter was referred to the Finance Department, again, with the delay of about one month.

The perusal of the above said table further reveals that the concerned department was moving in a very casual manner and took unreasonable long time in the entire process. The persons concerned failed to discharge duty assigned to them properly and with due diligence, despite availability of all facilities and infrastructure. The explanation given by the applicants does not constitute sufficient cause prescribed under Section 5 of the Limitation Act as there is no proper explanation given by the applicants for the delay, except for mentioning the various dates. The applicants have failed to give any acceptable and cogent reason sufficient to condone the long delay, as delay in moving files from one department to another is not sufficient explanation for condoning the long delay. In some of the applications, this plea has been also taken that the delay had been caused due to the prevailing of Covid situation at that time. But again no satisfactory explanation has been given for the delay, that had been caused during the Pre Covid period. Rather even Pre-Covid period was sufficient for filing of the appeals, if the appellants had acted diligently and promptly.

Thus, the explanation given for delay do not show any sufficient cause and rather clearly reflects the laxity on the part of the concerned department.

The Hon'ble Apex Court in **Office of the Chief Post Master General and others** case (supra) has observed as under:-

“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 bona fide 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.”

So as per the ratio of law laid down in case supra, the State cannot be placed in a better position. The delay is not to be condoned mechanically because the Government or a wing of Government is a party before the Court. The law of limitation undoubtedly is binding upon everybody, including the Government.

Applying the law laid down by the Apex Court to the facts of the case in hand and considering the averments in the applications for condonation of delay, we are of the opinion that as such no explanation

much less a sufficient or a satisfactory explanation has been offered by the applicants for condoning the long delay in filing of the LPAs. So no ground is made out to condone the delay in filing of these LPAs. Therefore, the instant applications filed under Section 5 of the Limitation Act for condoning the delay in filing of these LPAs are dismissed and consequently the main appeals as well as all the pending CMs, if any, are also dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

13.03.2023
Komal

Whether speaking/reasoned? : Yes/ No
Whether reportable? : Yes/ No

Annexure A-1

Sr. No	LPA No.	Date of impugned order	Date of downloading of said order from the website of High Court	Referred to Finance Deptt. Haryana	Matter sent back by Finance Deptt.after consideration	Matter referred to the office of Advocate General, Haryana	Received back from office of Advocate General, Haryana	<u>Regarding fitness for LPA</u>	Sent for Vetting	Matter received after vetting	Delay in filing LPA
1	301 of 2020	15.07.2019	19.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	09.12.2019	08.01.2020	27.02.2020	163 days
2.	187 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	05.12.2019	12.10.2020	12.10.2020	215 days
3.	195 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	07.12.2019	12.05.2020	01.09.2020	214 days
4.	199 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	07.12.2019	01.06.2020	01.09.2020	215 days
5.	200 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	07.12.2019	11.06.2020	01.09.2020	215 days
6.	202 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	07.12.2019	13.10.2020	30.12.2020	215 days
7.	209 of 2021	15.07.2019	19.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	09.12.2019	13.03.2020	19.03.2020	215 days
8.	210 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	07.12.2019	03.06.2020	01.09.2020	215 days
9.	215 of 2021	15.07.2019	14.08.2019	17.09.2019	13.11.2019	25.11.2019	11.12.2019	07.12.2019	12.05.2020	<u>01.09.2020</u>	215 days
10	1007 of 2021	15.07.2019	No date mentioned	No date mentioned	26.11.2019	No date mentioned	13.12.2019	07.12.2019	18.02.2021	09.07.2021	223 days