

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

(222)

LPA-1188-2016 (O&M)

Decided on: 07.02.2023

Administrator, HUDA, Faridabad and another

....Appellant(s)

Versus

Prem Kishore and another

.... Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE RITU TAGORE**

Present: Mr. R.D. Bawa, Advocate and
Mr. Dipanshu Kapur, Advocate for the appellant(s).

Mr. Arshdeep Bhullar, Advocate for respondent No.1.

G.S. Sandhawalia, J. (Oral)

CM-2469-LPA-2016

Application for condonation of delay has been filed by the appellant for condoning the delay of 320 days in filing the appeal against the judgment of the learned Single Judge dated 20.07.2015.

In the application it has been averred that the judgment was forwarded to the Administrator, HUDA on 24.07.2015 and for further approval from the competent authority. Case was sent to the counsel for the appellant in the first week of May, 2016.

On 25.07.2016 the Coordinate Bench had observed that how the matter has been dealt with by the various authorities would have to be examined.

Affidavit of Shri Satpal Singh, Executive Engineer has now been filed giving the details as such on what account the delay has

occurred. It has been mentioned that initially a sum of ₹5,47,147/- had

become payable and the bill of the same was prepared on 31.08.2015. Eventually vide letter dated 07.09.2015, the interest element @ 12% per annum was sought to be challenged and approval was accordingly granted by the Superintending Engineer on 18.09.2015. The judgment of acquittal in favour of the workman was also taken into consideration and eventually the case was entrusted to the counsel for filing the appeal.

The application has been opposed by filing reply, whereby it has been mentioned that in COCP No.2430 of 2018, the appellant has made part payment, but balance amount alongwith interest is still outstanding while referring to the order dated 05.02.2020 (Annexure R-1).

Keeping in view the above, we are of the considered opinion that sufficient cause has been shown regarding the delay which has occurred. It is settled principle of law that each and every day's delay is not be explained as has been held in **Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others'** (1987) 2 SCC 107. Accordingly, the application is allowed. Delay of 320 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1188-2016 (O&M)

The appeal is directed against the judgment of the learned Single Judge dated 20.07.2015 passed in **CWP-7925-2009 'Prem Kishore Vs. Presiding Officer, Industrial Tribunal-cum-Labour Court-III, Faridabad and others'**. The learned Single Judge while modifying the Award of the Labour Court dated 21.01.2009 has held that the workman is entitled to compensation @ ₹1 lakh per year, which payment was to be made within a period of three months, failing which it would entail the

interest @ 12% per annum. It was also noticed that his services were terminated on account of the fact that he was allegedly involved in stealing of the RCC Poles owned by the HUDA and in this regard FIR bearing No.117 dated 26.02.2000 was registered against him, in which there was eventually a acquittal recorded by the Additional Sessions Judge, Faridabad on 04.10.2008. The learned Single Judge also noticed that the employment was on daily/contractual basis and while relying upon the judgment of the Apex Court passed in **BSNL Vs. Bhurumal, 2014 (3) SCT 49** held that he was not entitled for reinstatement.

As noticed during the pendency of the proceedings and as per the affidavit filed also the Management was never seriously opposing the payment of the compensation as awarded by the learned Single Judge and already prepared the bill. The law is also settled regarding this context and the Full Bench of this Court in **Municipal Council, Dina Nagar, Tehsil & District, Gurdaspur Vs. Presiding Officer, Labour Court, Gurdaspur and another, 2015 (1) PLR 465** had discussed the said issue in detail and came to the conclusion that the Industrial Tribunal could direct the reinstatement on account of violation of Section 25F of the Industrial Disputes Act, 1947 and same cannot be denied on the ground that appointments were made by public bodies against public posts and were not in accordance with the relevant statutory recruitment rules. It was, however, held that there was no right to reinstatement and it was an exercise which was to be carried out in the facts and circumstances of the each case and monetary compensation would be the necessary where the posts were not filled in accordance with the statutory provisions. The length of service was a factor which has to be counted for grant of

compensation and which has been kept in mind by the learned Single Judge and, therefore, there can be no challenge on that account as ₹5,47,147/- has admittedly been paid.

The only question now arises is regarding the issue of interest and whether the grant of interest @ 12% per annum under the default clause was reasonable. In our considered opinion the appellant has himself called upon, the default clause of interest which has come into play on account of non-payment within the prescribed period, in which the learned Single has ordered. Therefore, there can be no quarrel on this aspect that the interest is not payable.

However, we find that the rate of interest @ 12% per annum is on the higher side and in our considered opinion is not prevalent bank rate at this point of time. Resultantly, we modify the order of the learned Single to the extent that the rate of interest will be paid @ 7% per annum.

It is pointed out that contempt petition is still pending. Accordingly, the present appeal is allowed to that extent by modifying the interest element to the said extent. The interest element be paid within a period of 4 weeks from today.

(G.S. SANDHAWALIA)
JUDGE

(RITU TAGORE)
JUDGE

07.02.2023
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No