

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

LPA-174-2024 (O&M)
Decided on : 09.02.2024

State of Punjab and others

.....Appellant(s)

Versus

Kalpna Devi

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Sourav Verma, Addl. AG, Punjab
for the appellants.

Mr. Sudeep Mahajan, Advocate for the respondent.

G.S. Sandhawalia, Acting Chief Justice (Oral)

1. Additional affidavit of the Director General of Police, Punjab, Shri Gaurav Yadav, has been filed, in pursuance of the order dated 20.01.2024. Same is taken on record.
2. The present letters patent appeal is directed against the judgment of the learned Single Judge dated 25.02.2020 passed in **CWP No.28820 of 2017 'Kalpna Devi Vs. State of Punjab and others'** and the order dated 09.01.2023 (Annexure A-2) passed in the review application bearing **RA-CW-144-2021**. Even from the date of the decision of the review application, the appeal is apparently time barred, though delay has been calculated from the date of the initial decision dated 25.02.2020 to be 1388 days.
3. A perusal of CM-392-LPA-2024 which has been filed for condonation of delay of 1388 days in filing the appeal would go on to show that after the dismissal of the review on 09.01.2023, certified copy has been received on 31.03.2023 and request had been made on 06.04.2023 to the office of the Advocate General, Punjab for the legal opinion. The same was received on 23.06.2023 that it was a fit case for filing the appeal and the case was sent to the Home Department for sanction, which was received on 08.08.2023. The case was then sent for vetting on 10.08.2023, which was apparently only against the order passed in the review application and due to which a objection

had been raised by the office of the Advocate General. Necessary approval was then started for filing the LPA against the initial order and case was then sent to the office of the Advocate General on 11.09.2023. The vetting was done on 08.01.2024 and thereafter the appeal was only filed on 16.01.2024.

4. There is no explanation as such for the delay which has occurred from 11.09.2023 till the filing now. Even additional affidavit filed today does not give any explanation regarding this aspect. In the affidavit, it has been mentioned that on account of the reassessment of the merit, the writ petitioner now figures at Sr. No.2 of the wait list and there is no vacancy available in the SC (R&O) female category.

5. The issue of delay has been time and again dealt with by the Apex Court that the State cannot claim any preference as such, though some indulgence can be shown. Reliance can be placed upon the judgment of the Apex Court in **Office of the Chief Post Master General and others vs. Living Media India Ltd. and another, (2012) 3 SCC 563**. As noticed the State has taken more than one year to file the appeal, though explanation has been given, but from September, 2023 onwards there is no explanation at all and, therefore, we do not find any reason to condone the delay.

6. However, we have the benefit as such of already decided case of similarly situated persons in **LPA No.468 of 2021 'Mamta Vs. State of Punjab and others'** and **LPA No.608 of 2021 'Bimla Bai Vs. State of Punjab and others'** which had been filed challenging a common order of dispensing of the service dated 28.11.2017. The learned Single Judge in the review order dated 09.01.2023 (Annexure A-2) has relied upon the judgment passed in the said cases and quoted the relevant paragraph from the same. As noticed the writ petitioner had joined on 29.12.2016 on regular basis as a Lady Constable, after accepting the offer of appointment which had been given on 19.11.2016. The medical had been duly conducted and then the appointment order and the belt numbers had been given. The dispensing as such was done after almost a year, without giving any opportunity of hearing, which was one of the reasons to allow the letters patent appeal challenging the order dated 28.11.2017.

7. A perusal of the order dispensing with the service would go on to show that the name of other similarly situated persons Mamta and Bimla Bai

figured at Sr. No.1 and 2, whereas the name of the respondent herein figured at Sr. No.3, therefore, the matter would be covered by the earlier order which has been referred by the learned Single Judge. In the said case we had noticed that indulgence had been granted by the DGP himself to one Jagandeep Kaur who was appointed as a Lady Constable in Ludhiana and letter had been issued that she should be adjusted against the vacant post lying in the district to the post of constable and she was thus allowed to continue in service. There is no reason why in the case of similarly situated persons, though from different district, the relief cannot be extended as to the appellants in the earlier case. The judgment in **Mamta (supra)** has already attained finality and even the review application filed in the case of **Bimla Bai (supra)** was dismissed on 06.08.2022.

8. Resultantly, we dismiss both the application for condonation of delay and the main appeal, for the reasons given above.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

09.02.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No