

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

RSA-196-2024 (O&M)

Date of Decision :01.02.2024

The Collector Hisar and others

..Appellants

Versus

ESI Jaibir Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harish Nain, AAG, Haryana
for the appellant-State.

* * *

Harsimran Singh Sethi, J. (Oral)

1. Present regular second appeal has been filed along with the application seeking condonation of delay of 224 days in filing the present appeal.

2. A bare perusal of the application seeking condonation of delay would show that against the judgment and decree dated 07.10.2022 passed by the Court below, which has been impugned in the present regular second appeal, even an opinion was received for filing the appeal on 19.10.2022 but despite the said opinion received within a period of 12 days, no appeal was preferred by the State up to September, 2023. Nothing has come on record as to why despite the opinion given by the authority concerned to file the appeal, appeal could not be preferred.

3. As per the judgment of the Hon'ble Supreme Court of India in

Civil Appeal No.2474-2475-2012 titled as **Office of the Chief Post Master**

General and others vs. Living Media India Limited and another decided

on 24.02.2012, even each day's delay is to be explained to show the bonafide that delay was beyond the control of the applicant seeking condonation of delay and the same was not due to the inaction on the part of the authority concerned. Relevant paragraphs of the judgment are as under:-

“In our view, it is the right time to inform all the government bodies, their agencies and instrumentality 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.

14) In view of our conclusion on issue (a), there is no need to go into the merits of the issues (b) and (c). The question of law raised is left open to be decided in an appropriate case. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs.”

4. In the present appeal, not even a single reason has been mentioned as to why there was delay in filing appeal when once the opinion was received from the authority concerned on 19.10.2022 to file an appeal and thereafter, there was two month's time to file the appeal within limitation but the same was not preferred upto September, 2023. The reasons given in the application seeking condonation of delay does not find any merit for the grant of prayer as made in the said application as no

circumstance which was beyond the control of the applicant has been mentioned in the application.

5. Even otherwise, learned counsel for the appellant-State has not been able to point out any perversity in the findings so recorded by the Court below, where the concurrent findings have been recorded keeping in view the facts which had come on record that even before the enquiry officer keeping in view the statement of the complainant himself, there was no evidence to prove the charges alleged against respondent/plaintiff on the basis of which, the respondent/plaintiff was imposed a punishment of stoppage of two increments.

6. Keeping in view the totality of the facts and circumstances noticed hereinbefore, application seeking condonation of delay in filing the present regular second appeal as well as main appeal does not deserve any merit and the same are accordingly dismissed.

February 01, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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