

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

LPA-417-2024 (O&M)
Decided on : 07.02.2024

State of Punjab & others

.....Appellant(s)

Versus

Dr.Gurmeet Singh

.....Respondent(s)

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

Present:- Mr.Saurav Varma, Addl.A.G., Punjab, for the appellants.

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

1. The present appeal seeks consideration of the order dated 07.07.2022 passed by the Learned Single Judge whereby CWP-25207-2015 filed by the appellants was disposed of in terms of the earlier decision in CWP-22174-2015 titled *Darshan Singh Vs. State of Punjab & others*, decided on 19.12.2018.

2. The present appeal is barred by 537 days. The averment made in the application is that the judgment was received in the office of Civil Surgeon, Tarn Taran on 20.07.2022 and letter had been written to the Director, Health & Family Welfare Department, Punjab for compliance of the said order. Vide letter dated 19.09.2022, the office of the Advocate General Punjab had written to the Civil Surgeon giving the legal opinion and thereafter, on 05.12.2022, the Director, Health Department sought opinion whether appeal should be filed. Eventually, a decision was taken on 04.01.2023 and the Director wrote on 31.01.2023 to the office of the Civil Surgeon, Tarn Taran. The said office had then replied that the case pertains to Civil Surgeon, Amritsar and it was on this account the delay is sought to be condoned.

3. The appeal was only filed in January, 2024. There is nothing to show as to what happened between the intervening period from February, 2023 till the filing of the appeal which is sufficient ground to dismiss the appeal. The Apex Court has time and again reiterated that the Government cannot be considered on a different footing for considering the issue of limitation. Reliance can be placed upon the judgment of the Apex Court passed in **Office of the Chief Post Master General and others vs. Living Media India Ltd. and another, (2012) 3 SCC 563**.

4. Even otherwise, the Learned Single Judge has only directed disposal in terms of judgment passed in Darshan Singh (supra). We have perused the same wherein an opportunity was given to pass fresh order in consonance with the provisions of Rule 2.2 (a) of the Punjab Civil Services Rules. Relevant part of the judgment reads as under:

“In view of the above, the order (Annexure P-10) is set aside. The opportunity is given to the respondents to pass fresh order in consonance with the provisions of Rule 2.2 (a), as interpreted by this Court on earlier occasion as noticed hereinbefore. The present writ petition is allowed in the above terms.

After the order is passed, the fresh order is passed by the respondents authority, in pursuance to the direction given above, whatever the difference of the pension the petitioner is found entitled for, the same will be released to him from the date it was stopped. Let the above mentioned exercise be carried out of passing the fresh order within a period of three months.”

5. In such circumstances, we are of the considered opinion that the present appeal is not liable to be entertained, both on the ground of limitation and the fact that what was impugned before the Learned Single

Judge was an order dated 03.09.2015 (Annexure P-9) whereby 100% of the pension was withheld and the provisional pension drawn by the respondent herein was stopped. Rather State was given liberty to pass fresh orders which has not been acted upon and filing of the present appeal, in our considered opinion, is not justified.

6. Resultantly, in view of the above discussion, the present appeal along with the application for condonation of delay are hereby dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

February 7th, 2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No