

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

(112)

**LPA-510-2024 (O&M)
Decided on : 23.02.2024**

Haryana Staff Selection Commission

.....Appellant(s)

Versus

Rohit Sharma

.....Respondent(s)

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

Present:- Mr.Deepak Balyan, Addl.A.G., Haryana for the appellant.

G.S. Sandhawalia, ACJ (Oral)

1. Consideration in the present appeal, filed by the Commission, is to the judgment dated 07.12.2022 passed by the Learned Single Judge in CWP-3189-2019, filed by the writ petitioner/respondent herein.

2. The writ petitioner had been found ineligible on account of the fact that his Ex-serviceman Dependency Certificate was not valid on the date of scrutiny of documents i.e. 14.12.2017. Apparently, at a subsequent point of time, the renewed certificate was provided on 22.02.2018 (Annexure P-6) issued by the District Sainik & Ardh Sainik Welfare Department, Ambala. At that stage, he was declared ineligible on the ground that the certificate was after the cut-off date. Learned Single Judge noticed that even the marks of interview were not awarded but still there were vacant posts available. Apparently, an order was also passed on 15.02.2019 whereby 16 posts of ESM category were directed not to be transferred to the General Category candidates which has also been relied upon by the Learned Single Judge. It is in such circumstances, directions had been issued in favour of the writ petitioner to consider him for appointment as per merit.

3. A perusal of the application seeking condonation of delay of 391 days in filing the appeal would go on to show that though an opinion was taken from the office of the Advocate General on 17.02.2023 to file the appeal but the actual decision was taken to file it on 24.04.2023. Thereafter the matter was stated to have been processed with the necessary documents and then filed 31.01.2024. There is no explanation forthcoming for the delay which has occurred from April, 2023 onwards. In such circumstances, in the absence of any plausible reason for the delay in filing the present appeal, we are of the considered opinion that the same is not liable to be condoned. 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** wherein, the following principles have been laid down:-

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic

methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13) 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 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.”

4. Resultantly, keeping in view the cumulative facts as noticed above, we do not feel that it is a fit case to allow the application seeking condonation of delay of 391 days in filing the appeal and the same is hereby dismissed. Consequently, the main appeal along with other application(s) also stand dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

February 23rd, 2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No