

(125)

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

LPA-530-2024 (O&M)

Date of decision : 26.02.2024

Haryana Staff Selection Commission

.....Appellant

Versus

Pooja and others

....Respondents

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

HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Deepak Balyan, Addl. Advocate General, Haryana.

G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. The present appeal is directed against the order dated 31.03.2022 passed by the learned Single Judge in CWP-6682-2022, which is barred by limitation of 249 days in re-filing and 398 days in filing, for which CMs-1285-LPA-2024 and 1287-LPA-2024 have been filed.

2. The delay is sought to be justified on the ground that the review application was filed, which was dismissed on 30.10.2023. A perusal of the order dated 30.10.2023 dismissing the review application would go on to show that the learned Single Judge dismissed it on the ground of delay itself and, therefore, the review application was not considered on merits. The same reasoning would prevail in the present application seeking condonation of delay, as apparently reading of the application makes it interesting to the extent that the opinion given by the Office of the Advocate General is being ignored by the appellant - Commission.

3. The Office of the Advocate General on 28.07.2022 had given an opinion that no case was made out to file the appeal and on 05.01.2023, much after the period of limitation had expired, a letter was written by the appellant - Commission requesting the Office of the Advocate General to re-consider its opinion. The appellant - Commission thereafter filed a review application which was dismissed, as noticed above, by the learned Single Judge noticing that the explanation did not inspire any confidence and the application was filed in a mechanical manner. It was also noticed that each and every day's delay is to be explained which was missing. Reliance was placed upon a decision of the Apex Court in ***Ramlal and others Vs. Rewa Coalfields Ltd., 1962 AIR (SC) 361***, apart from the judgment in ***Government of Maharashtra (Water Resources Department) Versus M/s Borse Brothers Engineers & Contractors Pvt. Ltd., 2021 SCC OnLine SC 233***.

4. The matter has been settled by the Apex Court beyond an anvil of doubt in ***Office of the Post Master General & others Vs. Living Media India Ltd. and another, (2012) 3 SCC 563***, that the Government does not stand on higher pedestal when it comes to the issue of condoning delay. As noticed above, not satisfied with the opinion of the Office of the Advocate General, appeal was filed after one year. In such circumstances, we are of the considered opinion that no case is made out to condone the delay.

5. In the facts and circumstances of the case, as the learned Single Judge has only directed that the waiting list be revised, since the writ petitioner had secured higher marks for the post of Veterinary Livestock Development Assistant than the last candidate in the waiting list, who had secured 68 marks, whereas the writ petitioner got 69 marks, we do not find any reason to condone the delay.

6. Keeping in view the above, the applications for condonation of delay and the appeal are dismissed.

7. All the other pending applications are, accordingly, disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

February 26, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	No