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CWP-14526-2024

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

117+118

CWP-14436-2024

Date of decision: 29.08.2024

**THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING  
FEDERATION LIMITED**

**...PETITIONER**

**Vs.**

**SUNITA GANDHI AND OTHERS**

**...RESPONDENTS**

CWP-14526-2024

**THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING  
FEDERATION LIMITED**

**...PETITIONER**

**V/S**

**SUSHIL KUMAR AND OTHERS**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Ankit Choudhary, Advocate for  
Mr. P.I.P. Singh, Advocate  
for the petitioner(s).

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**JAGMOHAN BANSAL, J (ORAL)**

1. By this common order CWP-14436-2024 and CWP-14526-2024 are being disposed of since issues involved in both the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-14436-2024.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 21.06.2021 (Annexure P-6) whereby Appellate Authority has dismissed the appeal of the petitioner on the ground of delay.



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3. The petitioner is a State Government undertaking. The workman of the petitioner preferred an application before Controlling Authority constituted under Payment of Gratuity Act, 1972 (for short '1972 Act'). The said application came to be allowed vide order dated 18.07.2018. The petitioner preferred an appeal before Appellate Authority which came to be dismissed on the ground of delay. The petitioner did not file application before Appellate Authority seeking condonation of delay in terms of sub-section (7) of Section 7 of the Payment of Gratuity Act, 1972 whereas application was filed under Section 5 of Limitation Act. The Appellate Authority noticing provisions of Payment of Gratuity Act came to the conclusion that appeal is time barred and even otherwise application has been filed under Section 5 of Limitation Act instead of Section 7 (7) of 1972 Act.

4. The petitioner on being confronted with Section 7 (7) of 1972 Act expressed his inability to controvert the fact that Appellate Authority could have condoned the delay of not more than 60 days and in his case, there was delay of more than 60 days.

5. Proviso to sub-section (7) of Section 7 of 1972 Act categorically provides that Appellate Authority may condone delay of maximum 60 days. For the ready reference, Section 7 (7) of 1972 Act is reproduced as below:-

*“(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:*

*Provided that the appropriate Government or the appellate authority, as the case may be; may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the*



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*appeal within the said period of sixty days, extend the said period by a further period of sixty days."*

6. Concededly, there was delay of more than 60 days on the part of petitioner and application seeking condonation of delay was filed under Section 5 of Limitation Act.

7. In view of judgment of Supreme Court in *Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others (2008) 3 SCC 70* and *CCE Vs. Hongo (India) (P.) Ltd (2009) 5 SCC 791*, the Appellate Authority could not condone the delay and appeal was rightly dismissed on the ground of limitation.

8. Dismissed.

29.08.2024  
manoj

[JAGMOHAN BANSAL]  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |