

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
Neutral Citation No. 2024:PHHC:050996-DB

(108) LPA-339-2022 (O&M)
Decided on : 16.04.2024

State of Punjab and othersAppellant(s)

Versus

Sukhbir Singh Sodhi and othersRespondent(s)

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

Present:- Mr. Salil Sabhlok, Sr. DAG, Punjab.

Mr. K.S. Kharbanda, Advocate for the respondents.

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

Consideration in the present letters patent appeal is sought of the order passed by the learned Single Judge dated 27.11.2017 in **CWP-21483-2013**. The appeal is barred by 811 days in filing and, accordingly, CM-867-LPA-2022 for condonation of delay has been filed. It is also a matter of record that RA-CW-265-2018 had also been filed, which was dismissed on 19.02.2020. Even if we calculate the period from 19.02.2020, the present appeal was filed only on 28.04.2022.

2. A perusal of the application for condonation of delay would go on to show that it is an admitted case that the review application was dismissed on the ground that effect of the order of the learned Single Judge has already been granted. The dispute as such pertained to the issue of parity of pay-scales which had been granted to the persons working on the post of Agriculture Development Officers of the Administrative Wing. The sufficient cause which is sought to be made out in the application filed was that other similarly

situated persons filed various writ petitions in the year 2021 to grant the same benefit and directions were issued to decide their legal notices within a stipulated period. It was at that point of time the department while considering the representations came to the conclusion that the duty and responsibilities of the posts of Technical Assistants as well as Agriculture Development Officer are different. An averment has been made in paragraph No.6 that an opinion was then sought from the office of the Advocate General, Punjab regarding the judgment passed by the learned Single Judge, which had been decided alongwith other CWP-18663-2013 'Navdeep Singh and others Vs. State of Punjab and others'. Thereafter, the opinion was received that persons working as Technical Assistants were not entitled for the pay scale of Agriculture Development Officer. Therefore, the appeal was sought to be filed, which is now barred by 811 days.

3. The application does not show as and when the opinion was even given. Thus, there is inordinate delay over a period of two years between the dismissal of the review application and the filing of the present appeal. If the delay is to be counted from the initial date of decision of 27.11.2017, it would amount to around 4 ½ years. It has been time and again held by the Apex Court though an elastic view is to be taken in condoning the delay but it cannot be stretched beyond a reasonable period, which the State is now trying to justify. Reliance can be placed upon the judgment of the Apex Court in **Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation & another, (2010) 5 SCC 459, Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & others, (2013) 12 SCC 649 and Office of the Chief Post Master**

General and others Vs. Living Media India Ltd. And another, (2012) 3

SCC 563. Relevant portion of the said judgment reads as under:-

“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.”

4. Keeping in view the fact that in the review it was noticed by the learned Single Judge that amounts stood already paid to the writ petitioners and, thus, on account of lack of sufficient cause, we do not feel it is a fit case to reopen the issue in the peculiar facts and circumstances.

5. Resultantly, application for condonation of delay as well as main appeal alongwith all pending civil miscellaneous applications stand dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(VIKAS SURI)
JUDGE

16.04.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No