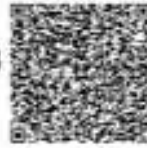


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

2024.PHHC:071872-DB



LPA-1264-2024 (O & M)
Date of Decision: 21.05.2024

State of Punjab and others

.....Appellant(s)

Versus

Meena Kumari

....Respondent(s)

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

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

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

1. Consideration in the present letters patent appeal is to the order dated 04.12.2020 passed by the learned Single Judge in CWP-12439-2020, Meena Kumari vs. State of Punjab and others whereby, the learned Single Judge has allowed the writ petition filed by the writ petitioner-respondent.

2. The sum and substance of the relief granted was that the husband of the writ petitioner as such had to be granted the benefit of the old pension scheme having been regularized at a subsequent point of time. The said benefit was granted on the basis of the judgment of the Division Bench in ***Harbans Lal vs. State of Punjab and others, 2012 (3) SCT 362***. The learned Single Judge was at pains to notice that the law had been settled since the SLP against the said judgment had been dismissed but the State as such was not granting the said benefit even though it had been upheld by the Apex Court. Resultantly, while falling back on the judgment of the Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab and others, (1997) 3 SCT 468***, the interest element was also given @9% p.a. from 03.12.2020.

3. Counsel for the State has submitted that the State has already given the financial pay out as such and he is only aggrieved against the interest element which has been granted @9% per annum.

4. It is not disputed that the present appeal is barred by 780 days in filing the same. The State had chosen to file a review in January, 2023 and as per the application itself, which was also barred by 801 days in filing the same and CM-7716-RACW-2023 had also been filed. The State had neither pressed the review on merits which would be clear from the order dated 09.05.2023, which reads thus:-

“At the outset, learned counsel for the applicant-respondents on instructions from Deputy Superintendent of Police, Jaspal Singh submits that the present review application may kindly be disposed of having been not pressed with liberty to avail appropriate remedy as admissible under law.

Ordered accordingly.”

5. After getting a dismissal as withdrawn as such, the present appeal has now been filed on 13.05.2024. There is no plausible reason which is coming forth as to why for one year the appeal was not filed after having got the review application as dismissed as withdrawn. The only prayer as such is made that similar matters are pending regarding the issue of interest before this Court.

6. The learned Single Judge has already relied upon the judgment of the Full Bench in which the law already stands settled on this aspect. In the application for condonation of delay filed herein i.e. CM-3035-LPA-2024, nothing has been shown that once the review was dismissed without pressing it on merits, what was the tangible reason as such to file the appeal. The interest element is stated to be Rs.4,15,717/-, which apparently is pinching the State. It is in such circumstances, the present appeal has been filed.

7. Reliance can be placed upon the judgments 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 that the delay is not liable to be condoned at the asking.

8. The interest component is only on account of the delay for grant of retiral benefits and, therefore, having not paid the amount and forcing the wife of the deceased-employee to litigate, the amount has become payable. It is on the account of the State itself that the interest element has cropped up.

9. Thus, no fault can be found in the order passed by the learned Single Judge granting interest as per the verdict of the Full Bench. In such circumstances, we are of the considered opinion that no tangible reason is made out and no sufficient cause is made to condone the inordinate delay of 780 days.

10. Accordingly, we dismiss the application for condonation of delay in filing the appeal and the resultant effect is that the appeal also stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

21.05.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No