

**CM-6532-LPA-2024 in/and
LPA-2681-2024**

2024:PHHC:144624-DB



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

**CM-6532-LPA-2024 in/and
LPA-2681-2024**

Date of Decision: November 06, 2024

RAM DULARI

.....Appellant

Versus

STATE OF PUNJAB AND ORS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Ravi Kant Sharma, Advocate and
Mr. Himanshu Sharma, Advocate for the appellant.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J.

1. This appeal has been filed challenging decision dated 08.11.2013 passed by learned Single Bench in CWP-10300-1993 which was filed by petitioner alongwith number of others. There is delay of 3964 days in filing this appeal.

2. Learned counsel for applicant-appellant submits that writ petition in question was filed by the applicant alongwith 66 other persons. Matter was heard with another writ petition i.e. CWP-10300-1993. Vide order dated 08.11.2013, CWP-10300-1993 alongwith CWP-7280-1993 filed by present applicant and others, besides number of other petitions [(total of 70 writ petitions)] were decided. Learned counsel for applicant submits that applicant

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retired from service on 31.12.2010. At that time, writ petition was pending adjudication. Petitioner was never informed about the final outcome of writ petition and she came to know about decision dated 08.11.2013 on 19.09.2024, when she met some of her colleagues. Immediately thereafter, applicant took necessary steps and this appeal was filed on 07.10.2024. It is vehemently argued that there is in effect no delay in filing of the appeal as applicant was not ever made aware of decision dated 08.11.2013 in the writ petition filed by her collectively with other persons. Moreover, LPA-199-2014 arising out of controversy is still pending adjudication. Therefore, this delay in filing the appeal should be condoned and the applicant should not be shown the door only on this technicality.

3. Learned counsel for State has, however, opposed this application while submitting that there is no explanation whatsoever for condonation of such colossal delay. Dismissal of application as well as appeal is sought.

4. We have heard learned counsel for parties but do not find any ground for condoning the delay of 3964 days in filing the appeal.

5. Learned counsel for applicant has been at pains to submit that applicant was never informed about the outcome of the writ petition at any stage, therefore, there is no question of any negligence on her part and neither is the delay willful or intentional. Trite it is that the litigant has to be vigilant and keep track of litigation. In the given circumstances, we do not find any merit in the argument that applicant was not apprised of the decision of writ petition filed by her. It was for her to be watchful and circumspect. There is not even a whisper in the application to suggest that applicant at any point of time had made any effort to find out the fate of said writ petition filed by her

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in 1993. Doubtlessly, in case an applicant is able to show sufficient and reasonable cause, length of delay by itself, may not be material but delay cannot be condoned as a matter of generosity. Hon'ble the Supreme Court in **Union of India and Anr. versus Jahangir Byramji Jeejeebhoy (D) through his LR 2024(2) RCR (Civil) 571** referred to its earlier judgment in **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Others, (2013) 12 SCC 649** in para 33 as under:-

“33. In the case of **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Others, (2013) 12 SCC 649**, this Court made the following observations:

“21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because

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the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. (vii) The concept of liberal approach has to encapsulate the conception of 23 reasonableness and it cannot be allowed a totally unfettered free play.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone

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delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”

6. It was held that reasonable diligence has to be forthcoming on the part of the litigant. However, in the present case, we do not find any explanation leave alone, sufficient or reasonable explanation, to explain the delay in filing the present appeal.

7. No other argument has been addressed.

8. Accordingly, application seeking condonation of delay is dismissed. Appeal is, accordingly, dismissed as being time barred.

**(LISA GILL)
JUDGE**

**(SUKHVINDER KAUR)
JUDGE**

November 06, 2024
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No