



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.2991 of 2024 (O&M)
Date of Decision: 29.11.2024

The Ropar District Cooperative Milk Producers’
Union Limited

...Appellant

Versus

Balbir Singh & Others

...Respondents

CORAM: HON’BLE MR. JUSTICE G.S. SANDHAWALIA
HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Arun Gosain, Advocate
for the appellant.

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G.S. SANDHAWALIA J. (Oral)

The present Letters Patent Appeal is directed against the order dated 26.09.2024 passed by learned Single Judge in CWP No.17806 of 2020 titled as ‘*Balbir Singh vs. Additional Registrar Cooperative Societies and others*’ whereby the writ petition was disposed of while setting-aside the appellate order dated 09.09.2019 (Annexure P-26) passed by respondent No.2-Additional Registrar, Cooperative Societies, Punjab (here-in-after to be referred as ‘Appellate Authority’). The matter was remanded to the said Appellate Authority to re-hear the appeal by giving an opportunity to the petitioner to explain sufficient cause for condonation keeping in view the observations made by another learned Single Judge in *CWP No.1187 of 2017* titled as “*Punjab State Co-op Supply Marketing*



Federation (Marked) vs. Financial Commissioner (Co-operation), Punjab and others”.

2. Learned Single Judge found that the appellant's claim in the appeal has been dismissed on the ground that there was an application for condonation of delay of 08 days and therefore, Appellate Authority had come to the conclusion that it has no power to condone the delay. It is to be noticed that respondent No.2-The Joint Registrar, Cooperative Societies had reserved the judgment of the appeal on 28.11.2018 which was released on 28.12.2018 and an intimation of the said order was given to the parties.

3. It was the case of the writ petitioner (present respondent No.1) that he was never informed about the decision of respondent No.2 and he only came to know on 18.02.2019 and immediately, applied for the certified copy of the order which was received on 25.02.2019 and therefore, the appeal was filed on 11.03.2019. The alleged delay, if any, was thus sought to be condoned by filing the application on mere apprehension as such. It is settled principle that the period of applying for certified copy after the order comes available has to be necessarily excluded.

4. In such circumstances, we are of the considered opinion that the view taken by learned Single Judge in remanding the matter to the Appellate Authority to consider afresh cannot be faulted as such. It is to be noted that the civil rights of the employee is severely affected and the Authority as such while passing the order (Annexure P-26) under Sections 55/56 of the Punjab Co-operative Societies Act, 1961 has directed recovery



of the amount of Rs.31,28,273/- along-with future interest @ cash credit facility from the ex-employee serving as a General Manager.

5. In such circumstances, the remedy of the first appeal cannot be cut short as such in the manner the Appellate Authority has chosen to. Keeping in view the nominal delay, we are of the considered opinion that learned Single Judge was justified in remanding the matter. It is also to be noted that the judgment relied upon by learned Single Judge in **Punjab State Co-op Supply Marketing Federation (Marked)’s case (supra)** is stated not to have been appealed against and still holds the field.

6. With the above-said observations, the present appeal is dismissed.

7. All the pending application(s) stand disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

November 29, 2024
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No