

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-4673-2024
Date of decision: 29.02.2024

Tarsem Lal
...Petitioner

Vs.

State of Punjab and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Harnek Singh, Advocate for the petitioner.

AMAN CHAUDHARY. J.

1. Aggrieved by the order dated 04.03.2021, Annexure P-3, vide which the appeal of the petitioner has been rejected on ground of delay, the present Civil Writ Petition is filed under Articles 226/227 of the Constitution of India, for quashing the same.
2. Learned counsel contends that the petitioner, who has superannuated as Inspector, Punjab Roadways had filed an appeal, which was rejected on 04.03.2021, only on the ground of delay instead of deciding it on merits. The challenge in the impugned order was laid to the orders, whereby on account of charges of embezzlement, his services were suspended, however, on being exonerated, the order made no mention to the wages to be paid during the suspension period.
3. On having accepted the notice of motion, Mr. Amarpreet Singh Bains, AAG, Punjab is unable to support the impugned order. However, prays that in the eventuality of setting aside the same, liberty be granted to the respondents to pass afresh, after affording an opportunity of hearing to the petitioner.

4. In **Mahadeo Vithoba Nikam vs. Gajanan Pandurang Kulkarni**, (1998) 9 SCC 716, the appeal was allowed, setting aside all the orders of the appellate and revisional authority as also the High Court and the matter was remanded for fresh decision on merits after hearing the parties and Hon'ble the Supreme Court had observed that even though the appellant was not present before the Additional Tehsildar and filed the appeal against the order after a significant delay, the Appellate Authority was to consider the same on merits but it had been dismissed solely on the basis of delay.

5. While it is true that belated claims should not ordinarily be entertained, however, the right of filing an appeal vested in an employee, is of a substantive nature. It is thus, all the more essential on part of the Appellate Authority to consider and decide the same on merits, instead of axing it on the ground of delay alone, as was done in the instant case on the day, when it was filed. A perusal of the order reveals that it does not contain the reasons on the basis whereof the decision has been reached.

6. It is trite that the cause of justice deserves to be preferred, when pitted against technical considerations. As such, a pragmatic approach instead of pedantic must be adopted.

7. Even for this Court to have a holistic approach, it is much required that there is an availability of a point of view of an authority higher than the one, the order of which, was appealed against. Ordinarily and especially in the claim as involved in the present case, the petitioner would stand to lose rather than gain by delaying filing of an appeal.

8. Keeping in view the peculiar facts and circumstances of the case, the impugned order dated 05.04.2021 is set aside. The matter is remitted to the Appellate Authority, for rendering a decision on merits, in accordance with law,

within a period of six months, after affording a proper opportunity of hearing to the petitioner.

9. The present petition is disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

29.02.2024
G Arora

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