



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

(1)

**LPA No.3163 of 2024 (O&M)
Date of Decision: 10.12.2024**

Mohinder Pal

.....Appellant.

Versus

Chairman-cum-Managing Director c/o Thapar House,
Ballarpur Industries, Gurgaon and others

.....Respondents.

(2)

LPA No.3164 of 2024 (O&M)

Sunil Kumar

.....Appellant.

Versus

Chairman-cum-Managing Director c/o Thapar House,
Ballarpur Industries, Gurgaon and others

.....Respondents.

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

Present:- Mr. Gautam Kaile, Advocate
for the appellant(s) in both the appeals.

G.S. SANDHAWALIA, J. (Oral)

Both these time-barred appeals have been preferred against the order dated 09.02.2018 passed by the learned Single Judge, who had decided a bunch of 21 writ petitions, lead case of which was ***CWP No.1467 of 2015*** titled as ***Chairman-cum-Managing Director and another Versus The Presiding Officer and another***. In the sum and substance, the learned



Single Judge had allowed the writ petitions and set-aside the award dated 30.09.2014 (Annexure P-1) passed by the Presiding Officer, Labour Court, Ambala, which was in favour of the appellant. Vide the said award, the applicants-appellants had been granted reinstatement in service with full back wages along-with compensatory costs of Rs.11,000/- by way of damages for mental and physical agony undergone by them in each case.

2. Along-with these appeals, applications for condonation of delay of 1746 days in filing the same have also been filed. The alleged sufficient cause has been enumerated in paragraphs No.2 of the applications in both the appeals, which reads as under:

“2. That though the appeal was filed within time along with appeals of other workmen but the same was incomplete because the copy of the writ petition was not completely available with the counsel for the appellant as the some pages were missing from the paper book of the writ petition and the registry raised certain objections and the clerk of the undersigned received back the copies of the Letter Patent Appeals and after completing the paper books all the appeals were again filed but the registry again raised the objections on the present appeal and the copy of the present appeal was not traceable and could not find the paper book even after making so many efforts and now the same is being filed as fresh one. It is out here that the photocopy the present appeal is lying with the undersigned which was filed at that time along with other appeals. Thus the delay of 1746 days has occurred in filing the present Appeal in completing



*the record of the appeal which is not intentional but
due to the circumstances stated above.”*

3. Perusal of the above-said paragraph would go on to show that neither it has been mentioned when the appeals were filed along-with the appeals of the other workmen and when the office had raised certain objections. Similarly, the factum of receiving of the copies of the appeals and the re-filing details are also missing. It has, thus, been alleged that the copies of the present appeals were not traceable and now, the present appeals have been filed and the delay has occurred.

4. Learned counsel for the appellant(s) has very fairly brought to our notice that 03 appeals bearing ***LPA No.652 of 2019, 653 of 2019 and 720 of 2019***, which were filed on time, had met the fate of dismissal on 21.05.2019 before the Co-ordinate Bench. The principal of limitation and the ground for condonation of delay have been laid down by the Apex Court repeatedly. The settled principle is that though a liberal view might be taken but the Limitation Act cannot be wished away in the manner in which the application has been filed and the appellant wants redressal. As noticed above, the details of the filing and the return have not even been mentioned. Neither the details of re-filing the appeals nor the office diary numbers have been mentioned when the appeals were filed for confirming the details. Reliance can be placed upon the observations made by the Hon’ble Supreme Court in ***B. Madhuri Goud Versus B. Damodar Reddy, 2012(12) SCC 693***, whereby the order passed by the High Court condoning the delay of 1236 days, was set-aside by taking into account the fact that



neither the name of the Advocate to whom the papers were entrusted for the purpose of preparing the grounds of appeal was disclosed nor the affidavit of the concerned Advocate was filed. Accordingly, the appeal was allowed by the Apex Court by holding that the statement made by the respondent about misplacement of the documents by the office of the Advocate was vague to the core.

5. In the present appeals, as noticed, the period of delay is 1746 days, i.e more than 04 years and 09 months and it has been observed by the Hon'ble Supreme Court in ***Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others, 2013(12) SCC 649*** that the concept of liberal approach cannot be allowed a totally unfettered free play. The relevant observations and the principles laid down in paragraphs No.15 and 16 of the said judgment read as under:

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

(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.

(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.

(iii) Substantial justice being paramount and pivotal the technical considerations should not be given



undue and uncalled for emphasis.

(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.

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

(vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

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

(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.

(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.

(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.

(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.

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

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

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

(a) An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

(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.

(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.

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

6. In such circumstances, we are not inclined to call upon the respondents at this belated stage to file their reply to the application. Another reason which weighs with us is that the judgment under appeal has already been upheld by the Co-ordinate Bench and therefore, it would only be an academic exercise to call upon the respondents to contest a futile litigation.

7. Resultantly, both these appeals as well as the applications for condonation of delay in filing the same are dismissed keeping in view the above observations.

**(G.S. SANDHAWALIA)
JUDGE**

**(MEENAKSHI I. MEHTA)
JUDGE**

December 10, 2024
Yag Dutt

Whether speaking/reasoned: Yes
Whether Reportable: No