



CWP-4232-2025 (O&M)

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

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CWP-4232-2025 (O&M)

Date of Decision: 15.02.2025

Shilpa Jindal

..... Petitioner

Versus

Central Administrative Tribunal and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Amit Jaiswal, Advocate
for the petitioner.

Ms. Jyoti Choudhary, Senior Panel Counsel
for respondent No.2-UOI.

Ms. Madhu Dayal, Advocate and
Mr. Sukhmani Patwalia, Advocate
for respondents No.3 to 5.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. Challenge in this writ petition is to the order dated 30.08.2024 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh (in short referred to as 'CAT'), whereby, the application for condonation of delay as well as the OA filed by the petitioner was dismissed, by the Central Administrative Tribunal.
2. Notice of motion.
3. At this stage, Ms. Jyoti Choudhary, Senior Panel Counsel for UOI and Ms. Madhu Dayal, Advocate and Mr. Sukhmani Patwalia,

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Advocate for UT, Chandigarh, appear and accept notice on behalf of the respondent No.2 and respondents No.3 to 5 respectively.

4. A short point involved in the present petition where the learned CAT has rejected the OA filed by the petitioner on the ground of limitation and also application under Section 5 of the Limitation Act.

5. As per Registry of CAT, the OA was time barred by 740 days. It is the case of the petitioner that after passing the order of termination, she upon legal advise pursued the contempt proceedings which continued till 06.08.2018 whereupon it was withdrawn with liberty to file fresh contempt petition. However on account of continuous illness of the petitioner and also on account of the petitioner having sought certain documents under RTI, which was received by her only in April 2019, she preferred an OA on 31.05.2019 assailing the order of termination.

6. Learned counsel for the petitioner submits that the delay in filing the OA was on account of cogent and *bona fide* reasons and the same ought to have been condoned. The CAT ought to have heard the matter on merits.

7. Learned counsel appearing for respondents No.3 to 5-UT opposes the petition and submits that the petitioner had been actively pursuing a wrong remedy in spite of the objections being raised by the UT. The petitioner had also filed an SLP before the Hon'ble Supreme Court whereafter she has withdrawn the contempt petition and sought permission to file a fresh contempt petition. A reasonable time could have been granted for filing of contempt petition, however, she did not file any contempt



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petition and has filed the present OA in May 2019. Learned counsel has taken us to the orders passed by the learned CAT wherein the CAT has observed that in case of total delay of 740 days, even delay of 443 days is condoned on account of filing contempt petition, the delay for balance days upto 297 days remains unexplained. Learned counsel thus submits that OA has rightly been dismissed as time barred.

8. We have considered the submissions made by learned counsel for the parties and carefully perused the case file.

9. As per the Administrative Tribunals Act, an OA is required to be filed against an order within a period of one year in terms of Section 21 of the Act of 1985. However, the provisions of Section 5 of the Limitation Act applicable to the Act of 1985 that reasonable and cogent grounds are required to be given for condonation of delay.

10. It is a settled law that if a wrong remedy has been taken up by any litigant, the period spent for pursuing the wrong remedy can be condoned, in terms of the provisions of Section 14 of the Limitation Act. The Hon'ble Apex Court in the case of '**Purni Devi & another Vs. Babu Ram and another**', **2024 INSC 259**, held as under:-

*"36. More recently, in **Laxmi Srinivasa R and P Boiled Rice Mill v. State of Andhra Pradesh and Anr.** (2-Judge Bench), this Court followed the dictum in **Consolidated Engg. Enterprises** (Supra) and **M.P. Steel** (Supra) to exclude the time period undertaken by the Plaintiff therein in pursuing remedy under Writ Jurisdiction, in the absence of challenge to the bona*



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fides of the Plaintiff, in view of Section 14.

38. *On a perusal of the record, it is apparent that the plaintiff has pursued the matter bonafidely and diligently and in good faith before what it believed to be the appropriate forum and, therefore, such time period is bound to be excluded when computing limitation before the Court having competent jurisdiction. All conditions stipulated for invocation of Section 14 of the Limitation Act are fulfilled”.*

11. In the present case, in 2018, the petitioner had withdrawn his earlier contempt petition with liberty to file a fresh contempt petition. Later on, as per the advise received, she has filed an OA after obtaining documents under the RTI Act. The period spent in receiving documents for the purpose of filing of the OA can be said to be *bona fide*. We also noticed that the petitioner had suffered serious accident and had also subsequently remained hospitalized on account of heart ailment. The documents in this regard have been placed on record before the CAT which remained undisputed. The same, therefore, sufficiently explained the delay and we therefore, in the present case find it that the delay was on account of the reasons as noticed above which deserves to be condoned. Since the order of termination is an issue before the Court, the same has to be examined on merits.

12. In view thereto, we set aside the order dated 30.08.2024 passed by the Central Administrative Tribunal and remand the case back to the Central Administrative Tribunal and directed to decide the OA afresh on merits.

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13. Parties through their counsel are directed to appear before the concerned Central Administrative Tribunal on 11.03.2025.

14. The pending misc. application, if any, shall stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

15.02.2025
D.Bansal

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