



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

127

CWP-19741-2025.**Date of Decision: 16.07.2025.**

Nitin

....Petitioner.

VERSUS

Union of India and others

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

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

ANUPINDER SINGH GREWAL, J. (Oral)

The petitioner has challenged the order dated 24.09.2024 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, whereby his OA has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner had filed an application under RTI and learnt that he had secured 80.55 marks in the examination and, therefore, he ought to have been selected. The petitioner could not obtain the requisite information pertaining to the examination and had filed several representations in that regard. The petitioner was made available the information in pursuance to the information under the Right to Information Act, in the year 2023 and thereafter, he had promptly filed an OA. The OA ought to have been decided on merits and the petitioner should not have been ousted on the grounds of limitation as he had made out sufficient cause to condone the delay.

3. Heard.

4. The petitioner is stated to have participated in the selection to the post of Commercial Clerk in the year 2017. The list of selected candidates was declared in the year 2017. All the selected candidates are stated to have been appointed in the same year. The OA had been preferred by the petitioner only in the year 2024 i.e. after seven years after the completion of the selection process.

5. We find no merit whatsoever in the contention of learned counsel for the petitioner that the petitioner had to gather information and thereafter he could prefer the OA. The petitioner is currently working as General Assistant in the Railways and had sought his selection as a Commercial Clerk. He had preferred an application under RTI in the year 2021 and thereafter representations in the year 2023 and 2024. The petitioner ought to have approached the Central Administrative Tribunal within the period of limitation and in any event the delay of seven years cannot be justified in any manner whatsoever. Merely filing successive representations cannot be considered to be sufficient cause to condone the delay in approaching the Court/ Tribunal. Reference can be made to the judgment of the Supreme Court in the case of **Gian Singh Maan vs. The High Court of Punjab and Haryana and another, AIR 1980 Supreme Court 1894** wherein it was held as under:-

“(1) Inordinate delay without valid explanation therefor to the claim for promotion itself is a valid ground for refusal of relief to a petitioner. Successive representations made by the petitioner during the period can hardly justify the delay.

(2) The High Court was justified, as borne out by the records, not promoting the petitioner to a post in the Punjab Superior Judicial Service. The view of the High Court was neither unreasonable nor arbitrary.

(3) The Punjab Civil Service (Premature Retirement) Rules, 1975 are applicable to judicial officers as well. These rules were finalised after consultation with the High Court and therefore, must be regarded as complying with Article 234 of the Constitution. Further, there is nothing in the Punjab Civil Service (Judicial Branch) which excludes the operation of the Retirement Rules.

(4) As a policy decision was taken by the High Court that all the work pending in the court of the Judicial officers, in respect of whom a recommendation for premature retirement had been made to the Governor, should be withdrawn immediately pending a decision by the Government on such recommendation, it cannot be said that the withdrawal of judicial powers in the case of the petitioner was wrong. Even his premature retirement had been properly recommended as a policy matter under the Premature Retirement Rules.

(5) The expression "public interest" in the context of premature retirement has a well settled meaning. It refers to cases where the interest of public administration requires the retirement of a Government servant, who with the passage of years, has prematurely ceased to possess the standard of efficiency, competence and utility called for by the Government service to which he belongs. No stigma or implication of misbehavior is intended and punishment is not the objective.

(6) There is no discrimination or violation of Articles 14, 16, 17 and 46 of the Constitution in view of the fact, as borne out by the records, that no other judicial officer whose record of service was inferior or equivalent to that of the petitioner had not been prematurely retired.

(7) The concept of premature retirement which has found expression in the Punjab Civil Service (Premature Retirement) Rules, 1975, does not fall within the scope of Article 311. No element of punishment is involved in premature retirement and Article 311 therefore is not attracted."

6. The Supreme Court has considered the aspect of delay in approaching the Court in the case of **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and Ors. reported in (2013) 12 SCC 649** and held as under :-

"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, nonpedantic 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 bonafides 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 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 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 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.

7. The Supreme Court in the case of **State of Orissa & Anr. vs.**

Mamata Mohanty, (2011) 3 SCC 436 has opined as under:-

"54 . This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time."

8. The Supreme Court in the case of **Karnataka Power Corpn.**

Ltd. vs K. Thangappan reported in (2006) 4 SCC 322 has held as follows:-

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the

opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769]. Of course, the discretion has to be exercised judicially and reasonably."

9. Consequently, we do not find any illegality in the order of the Central Administrative Tribunal dismissing the OA of the petitioner on account of delay and laches. The petition is dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

16.07.2025
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No