

(2013) 11 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 1839 of 2013 (O&M)

Haryana State Co-Operative Agri.

APPELLANT

Vs

Satyapal

RESPONDENT

Date of Decision : 14-11-2013

Acts Referred:

Citation : (2014) 2 PLR 405

Hon'ble Judges : Mehinder Singh Sullar, J;Ajay Kumar Mittal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J.—The delay in refilling the appeals is condoned. This order shall dispose of a bunch of 19 appeals bearing LPA Nos.

1839 to 1849, 1891, 1898, 1899, 1900, 1902 to 1905 of 2013, as according to the learned counsel for the appellant, the facts and the issue

involved in all these appeals are identical. However, the facts are being extracted from LPA No. 1839 of 2013. Challenge in all these appeals is to

the judgment of learned Single Judge dated 8.8.2012 whereby the writ petitions filed by the respondents have been allowed and the impugned

orders of termination of their services have been set aside.

2. The relevant facts as narrated in LPA No. 1839 of 2013 are that in response to the advertisement dated 2.11.1993/21.12.1993 and 21.1.1996

published in the newspaper "National Herald", the private respondents applied for the posts of Managers, Land Valuation Officers, Clerks and

Typists. The selections were made in the year 1996. On receipt of various complaints, the Registrar Cooperative Societies, Haryana vide order

dated 14.5.1996 constituted a committee to conduct an enquiry. In the enquiry

report dated 21.5.1996, various irregularities were found in the recruitment. Some non selected candidates had challenged the selection and appointment of Managers before this Court. This Court stayed further appointments on 25.4.1996 and summoned the record relating to the selection of Managers. Thereafter, on detection of various malpractices adopted while preparing the merit list, the services of the selected persons were terminated by the Board of Directors of the respondent bank on 3.9.1996. The selected candidates filed CWP No. 13929 of 1996 in this court. The said petition was allowed vide order dated 8.4.1997 and the impugned order dated 3.9.1996 was set aside. The Bank filed LPA No. 433 of 1997 against the order dated 8.4.1997. The appeal was also dismissed vide order dated 14.1.2002. Still not satisfied, the bank filed SLP before the Apex Court which was dismissed vide order dated 24.8.2002. According to the appellant, prior to the judgment of the Apex Court, the Board of Directors of the Bank in pursuance to the order passed by this court in LPA discussed the issue in their meeting held on 20.4.2001. The Board of Directors constituted a committee to look into the illegalities and irregularities committed in the process of selection and appointment of Managers and other posts. Thereafter, show cause notices were issued to the selected candidates for dispensing with their services. The respondents challenged the said notices by filing various writ petitions. The same were disposed of vide order dated 6.11.2001 directing that in the event of an adverse order being passed, the respondents shall not be divested of the charge of their respective posts for a period of two week from the date of its communication so that they may be able to seek their remedy, if so advised. The appellant bank filed SLP against the aforesaid order which was dismissed vide order dated 18.3.2002. The respondents filed replies to the said show cause notices and the services of the respondents were terminated holding their appointments to be illegal. They filed writ petitions before this court which were decided by a common order dated 8.8.2012 in CWP No. 8763 of 2002, whereby the impugned orders of termination of their services were quashed. Hence the present appeals by the appellant Bank.

3. Learned counsel for the appellant submitted that the selection of the writ petitioners-respondents was not in accordance with the procedure and

no proper sanction from the Board of Directors of the respondent-bank was obtained prior to engaging them on employment. It was urged that in

such circumstances, the learned Single Judge had erred in accepting the writ petitions. With regard to the question relating to limitation, it was

submitted that there was delay of 366 days in filing the appeals due to the procedural delays in getting sanction etc.

4. After hearing learned counsel for the appellant and perusing the record, we do not find any merit in these appeals.

5. The respondents have been working on their respective posts for the last 17 years. There is no allegation against them regarding their work and

conduct or any malpractice on their part in getting the appointments. This Court in CWP No. 16166 of 1991, decided on 9.2.2011 Krishan

Kumar and others v. The Hisar District Central Cooperative Bank Limited and others, held that the persons who were continuing on their

respective posts could not be dislodged after lapse of long period, if there was nothing adverse against them.

6. Examining the legal position relating to condonation of delay u/s 5 of the Limitation Act, 1963 (in short, the "1963 Act") it may be observed that

the Hon'ble Supreme Court in Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and Another, laying

down the broad principles for adjudicating the issue of condonation of delay, in paras 14 & 15 observed as under:-

14. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation

with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The

idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period

within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the

delay, if sufficient cause is shown for not availing the remedy within the stipulated time.

15. The expression "sufficient cause" employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable

the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing

with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short

duration and a stricter approach where the delay is inordinate - Collector (L.A.) v. Katiji N. Balakrishnan v. M. Krishnamurthy and Vedabai v.

Shantaram Baburao Patil.

7. It was further noticed by the Hon''ble Apex Court in R.B. Ramlingam Vs. R.B. Bhvaneswari, as under:-

...It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act,

1963 does not lay down any standard or objective test. The test of ""sufficient cause"" is purely an individualistic test. It is not an objective test.

Therefore, no two cases can be treated alike. The statute of limitation has left the concept of ""sufficient cause"" delightfully undefined, thereby

leaving to the Court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are

no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with

by the Court as such.

8. It was also recorded that:-

For the aforestated reasons, we hold that in each and every case the Court has to examine whether delay in filing the SLP stands properly

explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the

prosecution of his appeal/petition....

9. From the above, it emerges that the law of limitation has been enacted which is based on public policy so as to prescribe time limit for availing

legal remedy for redressal of the injury caused. The purpose behind enacting law of limitation is not to destroy the rights of the parties but to see

that the uncertainty should not prevail for unlimited period. u/s 5 of the 1963 Act, the courts are empowered to condone the delay where a party

approaching the court belatedly shows sufficient cause for not availing the remedy within the prescribed period. The meaning to be assigned to the

expression ""sufficient cause"" occurring in Section 5 of the 1963 Act should be such so as to do substantial justice between the parties. The

existence of sufficient cause depends upon facts of each case and no hard and

fast rule can be applied in deciding such cases.

10. The Hon^{ble} Apex Court in *Oriental Aroma Chemical Industries Ltd. and R.B. Ramlingam's* cases (*supra*) noticed that the courts should

adopt liberal approach where delay is of short period whereas the proof required should be strict where the delay is inordinate. Further, it was also

observed that judgments dealing with the condonation of delay may not lay down any standard or objective test but is purely an individualistic test.

The court is required to examine while adjudicating the matter relating to condonation of delay on exercising judicial discretion on individual facts

involved therein. There does not exist any exhaustive list constituting sufficient cause. The applicant/petitioner is required to establish that inspite of

acting with due care and caution, the delay had occurred due to circumstances beyond his control and was inevitable. Adverting to the factual

matrix seeking condonation of delay in the present case, there is no satisfactory explanation for condonation of delay nor there is any merit in the

appeals. Consequently, these appeals are dismissed on merits as well as on the ground of delay and laches.