
(2013) 10 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 344 of 2012 (O and M)

Rajnish Kumar

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2013) 10 P&H CK 0008

Hon'ble Judges : Sanjay Kishan Kaul, C.J.; Augustine George Masih, J

Bench : Division Bench

Advocate : J.S. Bhatia, for the Appellant; Harsimran S. Sethi, A.A.G., Punjab, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, C.J.

CM-4203-2013:

1. Leave is granted to place on record the additional affidavit in respect of the application for condonation of delay and the application is allowed.

CM-886-2012 (For "condonation of delay of 448 days):

The only aspect we are examining" is as to whether sufficient cause has been made out to prefer the Letters Patent Appeal after an inordinate delay of 448 days. We had noticed in the order dated 27.8.2013 that at best there may be sufficient ground to condone the delay for the period spent in getting the review application decided and, thus, the period from the date of filing of the review application till the date of decision may be condoned.

2. The impugned order was passed on 27.9.2010 and the review application was filed only on 24.4.2011, i.e., after seven months and was dismissed on 3.6.2011. Thus, the review application itself was filed after seven months and even after dismissal of the review application, there is considerable delay as this appeal was filed only on 17.1.2012.

3. In the additional affidavit filed, the appellant seeks to plead that though the decision was given on 27.9.2010, he had no information till 21.12.2010 whereafter he requested a certified copy to be obtained. As to why no enquiry was made over this period of three months has not been explained. In any case, the certified copy of the order, applied on 23.12.2010, was ready on 28.1.2011 and was obtained by the appellant on 31.1.2011.

4. Thereafter starts a saga of ostensibly the counsel for the appellant asking certain notifications, etc. to be obtained. In this process, it is claimed that three months were spent.

5. The stated reasons about the wife of the counsel being unwell, as pleaded in para-7, is without any dates or particulars. In fact, there are large gaps when the appellant was still thinking which counsel to engage.

6. We are of the view that limitation is a valuable right which accrues in favour of the opposite party. Such a casual approach cannot be accepted that a litigant chooses to file an appeal as and when he/she desires to do so. If there is no sufficient cause explained, there can be no justification for condonation of delay. It is not an issue of a delay of a couple of days or months, but of such an inordinate period of a year and a quarter, out of which only a short period has to be excluded spent in prosecuting the review application.

7. We are, thus, not satisfied that there is any sufficient cause to condone the delay and have no option but to dismissed the application. So ordered.

8. The appeal being barred by time is dismissed.

9. At this stage, learned counsel for the appellant states that some similarly situated persons, who have approached the department, have been granted relief and, thus, he may be permitted to follow up the matter only departmentally on the basis of parity. We make it clear that dismissal of this appeal will not preclude the appellant from following up the matter departmentally and if the department in its wisdom, on the basis of parity, seeks to give relief to the appellant, the dismissal of this appeal would not come in the way of the appellant.