
Before Swatanter Kumar, J.

PUNJAB STATE ELECTRICITY BOARD,—*Petitioner*

versus

AMARJIT SINGH,—*Respondent*

C.M. No. 10763/CII of 1999 in

C.R. No. 3726 of 1999

17th February, 2000

*Limitation Act, 1963—S. 5—Sufficient cause—Reasons and details to be given in application seeking condonation of delay—Law of limitation not to be construed so liberally—Mere fact that Govt. or Board is an applicant no ground for condoning delay without sufficient cause
Revision dismissed.*

Held that the law of limitation cannot be construed so liberally that a substantive right of any party is taken away so lightly that it would give an impression as if law of limitation does not exist. There has to be some details, some reasons, which would, in law and on facts, constitute sufficient cause for condoning the delay and mere fact that the applicant is a Board or Government undertaking by itself is no ground for condoning the delay.

(Para 7)

Further held, that I do not see any sufficient reason has been stated in the application for condoning the delay of 104 days in filing the present revision. Thus, application u/s 5 of the Limitation Act is dismissed. Resultantly, the revision does not survive for consideration.

(Para 10)

J.S. Gill, Advocate, for the *petitioner*.

ORDER

(1) This revision is directed against the order dated 12th February, 1998 passed by the learned Additional District Judge, Amritsar. Along with the revision, counsel for the petitioner—Board has filed an application under section 5 of the Limitation Act for condonation of 104 days' delay in filing the present revision.

(2) Amarjit Singh had filed a suit for declaration to the effect that he was entitled to have *ad hoc* service counted towards seniority on his regularisation of service. As the defendant were not granting benefits to the plaintiff of the *ad hoc* service rendered by him prior to

his regularisation as Lineman, he filed the said suit. The services of the plaintiff as Lineman were regularised on 9th June, 1978. There was challenge to the senior framed by the Board. Resultantly, the suit was contested by the defendant raising objection with regard to the maintainability of the suit and it was argued that *ad hoc* service cannot be counted for giving temporary promotion in the event of any junior persons is promoted. Some circular in support thereof issued by the Board was placed by the petitioner herein and it was stated that the plaintiff cannot be granted benefit of seniority.

(3) Learned trial court, after framing four issues, answered all the issues against the defendant and in favour of the plaintiff and thus decreed the suit of the plaintiff. The court held that the plaintiff was entitled to have the *ad hoc* service counted towards the seniority on regularisation of his service. The learned trial court,—*vide* its judgment and decree dated 12th April, 1994, while relying upon 1988 (3) Service Law Reporter, 242, decreed the suit. This decree was challenged in appeal by the respondent - Board, but the appeal when filed was barred by time, as such, application under section 5 of the Limitation Act for condonation of delay was also filed alongwith the appeal.

(4) Learned first appellate court,—*vide* its judgment, dated 12th February, 1998, found that the Board had failed to show any sufficient cause for condoning the delay in filing the appeal. The learned first appellate court after framing the issue and granting the opportunities to the parties to lead evidence under section 5 of the Limitation Act, dismissed the same. Resultantly, appeal was also dismissed.

(5) Aggrieved from the said judgment, the present revision has been filed. As already noticed, this revision is also barred by time.

(6) The only reason given in the application is that the learned counsel appearing for the Board has shifted his house and during shifting probably the file got mis-placed resulting the revision becoming barred by time. No particular or date have been given in the said application. Revision was filed on 13th July, 1999 and till today certified copy of the impugned order has not been filed. The order was pronounced by the learned first appellate court on 12th February, 1998 and despite the fact that certified copy was applied on 15th February, 1998. There is no explanation whether the certified copy was received; when was it mis-placed and when was it found.

(7) The law of limitation cannot be construed so liberally that a substantive right of any party is taken away so lightly that it would give an impression as if law of limitation does not exist. There has to

be some details, some reasons, which would, in law and on facts, constitute sufficient cause for condoning the delay and mere fact that the applicant is a Board or government undertaking by itself is no ground for condoning the delay.

(8) At this stage it may be appropriate to make reference to the judgment of Hon'ble Supreme Court rendered in the case of *P.K. Ramachandran versus State of Kerala and another* (1) where the Hon'ble Supreme Court observed in unambiguous terms the settled principles governing the condonation of delay in the following manner :—

“Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs.”

The High Court does not appear to have examined the reply filed by the appellant as reference to the same is conspicuous by its absence from the order. We are not satisfied that in the facts and circumstances of this case, any explanation, much less a reasonable or satisfactory one had been offered by the respondent State for condonation of the inordinate delay of 565 days.

(9) Following the judgment of the Hon'ble Supreme Court in the case of *P.K. Ramachandran (supra)*, this Court in the case of *Gram Panchayat Malot versus Prem Singh*, C.M. No. 4751 and 4852-C of 1997 and RSA No. 2873 of 1997, declined to condone the delay in filing the appeal and dismissed the application preferred by the appellant under section 5 of the Limitation Act in that case. Furthermore, the Court in the case of *M/s Mauria Udyog & others versus Shubh Karan and another*, R.S.A. No. 2340 of 1996, decided on 10th October, 1996 held as under :-

“The term ‘sufficient cause’ must receive liberal meaning and has to be incorporated so as to introduce the concept of

(1) J.T. 1997 (8) S.C. 189

reasonableness as it is understood in its general connotation. Certainly Limitation Act is a substantive law and its provisions have to be adhered to in a manner that once a valuable right accrues in favour of one party, as a result of unexplained sufficient of reasonable cause and directly as a result of negligence, default or inaction of the other Party, such a right cannot be taken away lightly and in a routine manner.”

(10) For the reasons afore-stated I do not see any sufficient reason has been stated in the application for condoning the delay of 104 days in filing the present revision. Thus, application under section 5 of the Limitation Act is dismissed. Resultantly, the revision does not survive for consideration.

J.S.T.

Before N.K. Sodhi and N.K. Sud, JJ.

NARANG SINGH & OTHERS,—*Petitioners*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

CWP No. 4943 of 1999

22nd February, 2000

Constitution of India, 1950—Arts. 226/227—Land Acquisition Act, 1894—Ss.4 & 6—Declaration u/s 6 of the Act published on 23rd November, 1998 prior to Notification u/s 4—Notification u/s 4 published in 2 Newspapers on 2nd February, 1998—Challenge thereto that declaration u/s 6 is not sustainable—Held, that declaration u/s 6 of the Act cannot be made prior to date of publication of notification—Not the intention of the Legislature to deprive of landowners to file their objections after the Notification—Even in cases of urgency declaration is to be made after the notification—Declaration u/s 6 quashed.

Held that if the declaration u/s 6 were to be made prior to the date of the publication of the notification under Section 4, the land owners would be deprived of their right to file objections which is a very valuable right because such objections can be filed within thirty days from the date of publication of the notification under section 4 which is last of the dates of such publication. This cannot be the intention of the law.

(Para 4)