

ITEM NO.53

COURT NO.6

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 20719/2022

(Arising out of impugned final judgment and order dated 19-07-2022 in LPA No. 1222/2021 passed by the High Court Of Punjab & Haryana At Chandigarh)

ANIL KUMAR SHARMA

Petitioner(s)

VERSUS

THE STATE OF HARYANA & ORS.

Respondent(s)

(IA No.173636/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 12-12-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. Romy Chacko, AOR
Mr. Sudesh Kumar Singh, Adv.

For Respondent(s) Mr. Alok Sangwan, AAG, Haryana
Mr. Sumit Kumar Sharma, Adv.
Mr. Anurag Kulharia, Adv.
Mr. Sandeep, Adv.
Mr. Apoorv Yadav, Adv.
Mr. Vipul Dahiya, Adv.
Dr. Monika Gusain, Adv.

Mr. Sahu Amarnath Garg, Adv.
Mr. Vikrant Y. S. Narula, Adv.
Mr. Shikhar Singhal, Adv.
Mr. Robin Khokhar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard counsel for the parties .

The petitioner before us is assailing the order dated 19.07.2022 non-suiting him on the premise that there was an inordinate unexplained delay of 1612 days in refiling the appeal

against the impugned Judgment and order dated 21.11.2016.

The petitioner, after undergoing the process of selection, was served with the Letter of Appointment to the post of Nursing Sister dated 24.05.2013, but on medical examination, he was opined to be colour blind and held to be unsuitable for the job and that was the subject matter of challenge at his instance by filing writ petition before the learned Single Judge of the High Court, which came to be dismissed by Judgment and order dated 21.11.2016.

It has come on record that the LPA was preferred at his instance, which was initially filed on 06.02.2017 with Diary No. 1709109 and twice it was refiled, but the lawyer appearing on behalf of the petitioner has not taken proper care and thus delay was caused in refiled of the LPA and that was the reason there was an inordinate delay. The petitioner in the application filed under Section 5 of the Limitation Act seeking condonation of delay has tried to justify the delay, in paragraph 3 of the application. The same is extracted hereinbelow :-

"That the appellant through Sh. P. K. Chugh Advocate filed LPA on 06.02.2017 vide Diary No. 1709109. At that time there was delay of 47 days in filing the appeal. The Registry Branch of the Hon'ble High Court raised certain objections on 08.02.2017. The counsel refiled the appeal on 02.06.2017 but on 03.06.2017 the Registry Branch again raised objections that previous objections still not complied with. The appellant enquired from

the counsel many times about the case and he was assured that appeal is pending in the registry branch. The appellant keeps on enquiring from the counsel and the reply was same. Thereafter in March 2020 due to Covid-19 lock down was imposed in the entire country. Now again in March 2021 when the appellant enquired from the above said counsel, he provided diary No. 1709109 to know approached the above said advocate and collected his brief and approached the undersigned counsel for filing the LPA but during this process the delay of 1582 days has occurred in filing the appeal. Though initially there was delay of 47 days in filing and remaining is the delay in refiling but now the LPA is being filed through another counsel and thus there will be complete change of paper book and therefore, the present application is being filed for condonation of delay of 1582 days in filing. The delay in filing the LPA is neither intentional nor deliberate rather due to the bonafide reason mentioned above and thus deserves to be condoned in the interest of justice and equity."

After we have heard counsel for the parties, in our considered view, the High Court although has taken note of the delay of 1612 days but has not taken care of the explanation tendered by the petitioner in paragraph 3 of the application, of which judicial notice has been taken by this Court.

Although there was an inordinate delay, but the same has been duly explained by the petitioner and LPA preferred at his instance deserves to be considered on merits.

Accordingly, the order passed by the High Court dated 19.07.2022 is set aside. The LPA is restored on the file of the High Court, with a request to hear and decide the same on its own merits expeditiously.

The Special Leave Petition is disposed of in the above terms.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER