IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

111 CM-3197-LPA-2025
RA-LP-23-2025 in
LPA-1152-2024
Date of Decision: 26.08.2025

ROHTASH SINGH ....APPLICANT

Versus

STATE OF HARYANA AND OTHERS .....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Dilbagh Singh, Advocate
for the review applicant-appellant.

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LAPITA BANERJI, J.

CM-3197-LPA-2025

This is an application for condonation of delay of 303 days in filing of the review application being RA-LP-23-2025.

The review applicant-appellant has sought review/modification/correction of an order dated May 08, 2024 passed by a Coordinate Bench of this Court, of which one of us (Lapita Banerji J.) was a member.

It has been pleaded in the instant application that the order dated May 08, 2024 was received on May 22, 2024 and the review applicant-appellant was not feeling well at that time. Furthermore, he was highly disappointed and depressed by the manner in which he had been compelled to

approach this Court time and again, for no fault of his own. Therefore, the review petition could not be filed within the period of limitation.

We have heard the learned counsel for the review applicant-appellant and perused the relevant pleadings on record.

Apart from a cursory reference to the ill health of the review applicant and him suffering from disappointment/depression, no attempt has been made to provide sufficient cause justifying the delay of 303 days in filing of the review application. No corroborative evidence in the form of any medical record has also been brought on record, which would show that the delay on the part of the review applicant-appellant was neither intentional nor willful.

The Apex Court in ***Oriental Aroma Chemical Industries Ltd. v. Gujaral Industrial Development Corporation and another*** *(2010) 5 SCC 459,* ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and others*** *(2013) 12 SCC 649* and ***Office of the Post Master General and others v. Living Media India Ltd and another*** *(2012) 3 SCC 563* has clearly held that delay is not liable to be condoned at the asking.

In **Brijesh Kumar and others v. State of Haryana and others,** (2014) 11 SCC 35, the Supreme Court has made the following observations:-

> *"xxx*
> *7. The Privy Council in General Accident Fire and Life Assurance Corp. Ltd. v. Janmahomed Abdul Rahim, relied upon the writings of Mr Mitra in Tagore Law Lectures, 1932 wherein it has been said that:*
> *A law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law*

provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on equitable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognized by law.
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11. It is also a well-settled principle of law that if some person has taken a relief approaching the court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.
12. In State of Karnataka v. S.M. Kotrayya this court rejected the contention that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just 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. The Court observed that such a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches.
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In **Esha Bhattacharjee's** case (supra), certain principles for condoning the delay have been carved out by the Apex Court. The relevant extract is reproduced herein after:-

"*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, non-pedantic 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 bona fides 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, behavior 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 scrutinized 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 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.
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It has been held that neither *leisure* nor *pleasure* has any room while one moves an application for condonation of delay.

In **Oriental Aroma Chemical's** case (supra), the Apex Court held as follows:-

"*Xxx*
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 right 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 Limitation Act, 1963 and similar other statute is elastic enough to enable the courts to apply the law in a meaningful manner which subserves 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.
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In view of the above facts and the settled position of law we have no hesitation to hold that no cogent or sufficient cause has been brought on record for condoning the inordinate delay of 303 days in filing the instant

review application. Accordingly, same is dismissed. Since the application for condonation of delay has been dismissed on merit, the review application is also liable to meet the same fate as there is no legal necessity to hear the review application on merits, however, on the insistence of the learned counsel for the review applicant we have heard him on merits.

RA-LP-23-2025

This is an application for review/modification/correction of an order dated May 08, 2024 passed by a Coordinate Bench of this Court in LPA-1152-2024. The said LPA arose out of an order of dismissal of a writ petition being CWP-7756-2024. Even if the inordinate delay was to be overlooked and the review application was to be considered on merits, still the same is liable to be dismissed with costs in view of the factual position and the settled law discussed hereinunder.

2. It has been pleaded in the review application that the writ petition being CWP-7756-2024, filed by the review applicant-appellant, was dismissed vide an order dated April 05, 2024 in a *"most casual manner by not appreciating the facts and circumstances in a proper perspective."* Due to such rejection of the writ petition, Letters Patent Appeal being LPA-1152-2024 was filed by the review applicant-appellant but the same was also dismissed *"in limine"* without appreciating the principles of natural justice and by not giving an opportunity of hearing to the review applicant-appellant. According to the applicant, there are errors apparent in the order under review which are required to be reviewed. A miscarriage of justice has been

committed by wrong recording of facts by this Court and unsettling of the issue decided by the Supreme Court in **Dev Dutt v. Union of India** reported in (2008) 8 SCC 725.

3. Learned counsel appearing on behalf of the review applicant-appellant submits that the learned Single Judge acted on an erroneous assumption/impression that the review applicant-appellant had approached the Court only after his superannuation on April 30, 2022. The LPA Bench also proceeded on the same factually wrong assumption. Since the review applicant-appellant had approached the Court in 2017 by filing two writ petitions being CWP-4875-2017 and CWP-21190-2017, it was incorrectly recorded by the learned Single Bench that the review applicant-appellant started agitating for grant of his second ACP only after his retirement on May 31, 2022. The review applicant-appellant's first writ petition being CWP-4875-2017 was allowed vide order January 10, 2023 whereby he was granted the benefits of second ACP w.e.f. April 01, 2016. The Court on January 10, 2023, also allowed the review applicant-appellant to move a representation before the authority concerned for release of arrears w.e.f. March 04, 2014 on the basis of an oral agreement between the parties, which was not recorded in the order. Acting arbitrarily, the said benefit was denied to the review applicant by the employer vide speaking order dated January 12, 2017. It was for the first time recorded in the speaking order that there was an adverse entry recorded against him in his 2005 ACR for a period of five months between April 01, 2005 and August 31, 2005. Therefore, he was eligible for

grant of the second ACP benefits from 2016 and not from 2014. Such an illegal and arbitrary action on the part of the employer compelled the review applicant-appellant to file a third CWP-10390-2023 challenging the speaking order dated January 12, 2017. The review applicant had filed a second writ petition being CWP-21190-2017.

4. Learned counsel for the review applicant-appellant vehemently argued that the learned Single Judge recorded facts incorrectly by holding that the review applicant-appellant had not chosen to challenge the adverse entry of 2017 prior to the filing of the fourth/present writ petition and erroneously rejected the same without granting the appropriate relief. The Courts have acted unjustly especially in view of the fact that the applicant was compelled to withdraw the third (2023) writ petition and approach the authorities. The authorities acted arbitrarily in refusing to grant the applicant's prayer necessitating filing of the fourth writ petition.

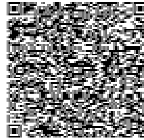
5. Next the learned counsel sought to reargue the appeal by submitting that the learned Single Judge misappreciated the legal proposition enunciated by the Apex Court in **Dev Dutt's** case (supra). The LPA Bench also was not inclined to hear the matter and in a *hurried* and *casual* manner, dismissed the same. Therefore, the settled proposition of law was not taken into consideration either by the learned Single Judge or by the LPA Bench. The review applicant-appellant had more than 70% of *good* ACRs and therefore, was eligible for grant of second ACP benefits from March 04, 2014 instead of April 01, 2016. The review applicant-appellant was rendered

helpless by the learned Single Bench as it was not inclined to hear the third writ petition being CWP-10390-2023 filed by the appellant on merits and compelled him to withdraw the same and avail of the alternative remedy by filing appropriate appeal/representation against the impugned order.

6. This Court has heard learned counsel for the review applicant-appellant and perused the material on record.

7. The review applicant has filed several writ petitions. While disposing of the first writ petition being CWP-4875-2017 the benefits of second ACP was granted from April 01, 2016. Since the review applicant was dissatisfied with the order of the learned Single Bench, he made a representation before the authorities. The said representation was disposed of by a speaking order dated January 12, 2017. A second writ petition was then filed by the review applicant in 2017 itself being CWP-21190-2017. In the said writ petition, the review applicant chose not to challenge the speaking order passed in January 2017. The only challenge in the second writ petition was to the factum of his juniors being promoted ahead of him. The third writ petition being CWP-10390-2023 was filed by the review applicant after his retirement in 2022 challenging the speaking order of 2017, for the first time after his retirement. The same was dismissed as withdrawn, with liberty to the applicant to avail of the alternative remedy.

8. A perusal of the order under review would reveal that after giving personal hearing to the review applicant-appellant in the representation filed before the employer/authorities for expunging the



adverse remarks for the period April 01, 2005 to August 31, 2005, the Director, Women and Child Development Department, Haryana had rejected the same. Vide letter dated March 24, 2023 grant of second ACP w.e.f. March 2014 was rejected. Challenging the said order of rejection the fourth writ petition being CWP-7756-2024 was filed.

9. The learned Single Judge while rejecting the fourth writ petition vide an order dated April 05, 2024, observed that from 2017 till such time the review applicant-appellant retired in 2022, he had not challenged the adverse entries made in his ACRs.

10. The LPA Bench observed that the review applicant neither pleaded the withdrawal of CWP-10390-2023 (third writ petition) in CWP-7756-2024 nor was anything brought on record to show that the learned counsel appearing on behalf of the review applicant-appellant brought the aforesaid factum to the notice of the learned Single Bench. In such circumstances, the Coordinate Bench opined that after withdrawal of CWP-10390-2023 (third writ petition), a latter writ petition being CWP-7756-2024, on the same cause of action (challenging the speaking order of 2017) would not even be maintainable. It was also recorded by the LPA Bench that the speaking order dated January 12, 2017 finds no mention in the second writ petition filed by the review applicant-appellant being CWP-21190-2017, where the only challenge was to the factum of juniors of the review applicant-appellant, being promoted ahead of him. Therefore, it held that the learned Single Bench had correctly concluded that there was no challenge to

the 2017 speaking order till 2023 (i.e. after the retirement of the applicant in 2022). There was no challenge in the second writ petition to the adverse/average entries made in the ACRs for five months (April 01, 2005 to August 31, 2005) despite the applicant being aware of the speaking order. Admittedly, the cause of action was available in 2017 for upgradation of his ACRs or for non-grant of the second ACP benefits from 2014 due to 05 adverse/average entries in the ACRs and the appellant by not challenging the same approximately for a period of six years till filing of CWP-10390-2023, is deemed to have waived his legal rights and cannot reagitate the same again and again. Moreover, despite the fact that the appeal being LPA-1152-2024 was disposed of on May 08, 2024, in the presence of the review applicant-appellant, still by filing the instant petition he is seeking to reargue the issues raised before the LPA Bench.

11. Furthermore, the present application for recalling/review of the said order has been filed almost after 11 months of passing of the same, that too after one of the Members of the Bench has been transferred to a different High Court upon being elevated as a Chief Justice.

12. In the light of the aforenoted facts, to the mind of this Court, the review application is completely misconceived and is an abuse of process of law where neither there is an error apparent on the face of the record nor has there been a discovery of new and important fact after passing of the order. The Hon'ble Supreme Court has time and again reiterated that in a review application re-argument on merits is not permissible. The principles with

regard to scope and extent of review are discussed in RA-LP-61-2024 in LPA-670-2024 "***Dhirender Singh and others v. State of Punjab and others***" which are reproduced as under:

> "*xxx*
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> *The principles as regards the scope and extent of review jurisdiction of the court, have been summarized by the Hon'ble Supreme Court in* ***Kamlesh Verma v. Mayawati and others 2013 (8) SCC 320*** *and were reiterated by this Court as well, in the case of* ***Columbia Holdings Pvt. Ltd. and others v. State of Haryana*** *and others RA-CW-357 of 2015. The principles set out as regards scope and extent of review jurisdiction in various judicial precedents may be summarized as follows:*
>
> *A. Exercise of review jurisdiction is called for only in cases where one of the following ground exists:*
>
> *(i) When there is discovery of new and important matter or evidence, subject to the fulfillment of the following conditions:*
> *a) New matter/evidence discovered is of such nature which could change the judgment.*
> *b) Such new matter/evidence was not within the knowledge of the party seeking review*
> *c) Same could not be produced before court even after due diligence*
> *(ii) When mistake or error apparent on the face of the record.*
> *(iii) When there exists "any other sufficient reasons", which is interpreted as analogous to the aforesaid two grounds.*
>
> *B. The review jurisdiction is not exercisable on following grounds:*
> *(i) Only a "patent error" and not a "mere wrong decision" can be said to be an error apparent on the face of record.*
>
> *(ii) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*

(iii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(iv) If a matter is required to be first reheard and then corrected, it would be an appeal under the guise of review.

(v) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(vi) The power of review is to be exercised for "correction of mistake" and not for "substitution of view". Substitution of view would be the province of an appellate court.

(vii) Merely because a document which was forming part of the record was not considered at the time of deciding the case cannot be categorized as a mistake or error apparent on the face of record.

(viii) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(ix) The mere possibility of two views on the subject cannot be a ground for review.

(x) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(xi) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negative.

(xii) Failure to argue a point at the time of hearing of the matter by the court, is also not a ground for seeking review as it would be a case where the existing material was overlooked by counsel and not a case of excusable misfortune or mistake.

Justice Krishna Iyer, in ***Northern India caterers (India) Ltd. v. Lt. Governor of Delhi 1980 (2) SCC 167****, while highlighting the limited scope of review of judgement observed as under:*

"A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon".

In "Shri Ram Sahu (dead) through legal representatives and others v. Vinod Kumar Rawat and others" reported in (2021) 13 Supreme Court Cases 1, the Hon'ble Apex Court considered the scope and ambit of the Court's power to review under Section 114 read with Order 47 Rule 1 of the CPC and held that the power to review was not an inherent power of the Court. It must be conferred by law either specifically or by necessary implication. A review cannot be an appeal in disguise. A re-hearing of the matter is impermissible in law. It is beyond doubt or dispute that the review Court does not sit in appeal over its own order. It only constitutes an exception to the general Rule that once a judgment is signed and pronounced it should not be altered.

Under Order 47 Rule 1 CPC, the Court can review its decision on the following grounds:

"1. Application for review of judgment:-

1. Any person considering himself aggrieved

a) By a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

b) By a decree or order from which no appeal is allowed, or

c) By a decision on reference from a Court of small causes, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

2. A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when being respondent he can present to the

> *appellate court the case on which he applies for the review."*
>
> *The expression "any other sufficient reason" has to be interpreted in the light of other specific grounds. An erroneous decision/ order cannot be corrected in the guise of exercise of power of review.*
>
> *(emphasis supplied)*

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13. No satisfactory explanation could be provided by the learned counsel appearing for the review applicant for not preferring an appeal from the order under review as the only purpose for filing the review application is to reargue the issues settled by the Coordinate Bench.

14. In the light of the aforesaid discussion and the law governing the field, the present application is **dismissed** in *limine* for being filed after inordinate delay and also on merits. Keeping in mind the fact that the review applicant-appellant belongs to weaker section of the society, this Court refrains itself from imposing costs for wasting precious judicial time despite the disrespectful pleadings showing scant regard for authority of law have been made in the review application.

15. Connected applications, if any, are also accordingly disposed of.

[DEEPAK SIBAL]
JUDGE

[LAPITA BANERJI]
JUDGE

August 26, 2025
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