



110+111+112

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : 05-08-2025

110.

CWP-22432-2025 (O&M)

THE DIRECTOR SCHOOL EDUCATION, UT CHANDIGARH AND
ANOTHER

.....Petitioner(s)

VERSUS

SMT SUMAN LATA AND OTHERS

.....Respondent(s)

111.

CWP-22441-2025 (O&M)

THE DIRECTOR SCHOOL EDUCATION, UT CHANDIGARH AND
ANOTHER

.....Petitioner(s)

VERSUS

BALVINDER SINGH AND OTHERS

.....Respondent(s)

And

112.

CWP-22442-2025 (O&M)

THE DIRECTOR SCHOOL EDUCATION, UT CHANDIGARH AND
ANOTHER

.....Petitioner(s)

VERSUS

SMT ASHOK LATA AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mrs. Madhu Dayal, Addl. Standing Counsel with
Mr. Shubreet Kaur, Advocate
for the petitioner-U.T., Chandigarh.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present is the bunch of three writ petitions, the details of which are mentioned in the heading involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present bunch of petitions, the challenge is to the order of the Controlling Authority dated 29.08.2023 (Annexure P-2) in CWP No.22432 of 2025 and CWP No.22442 of 2025 and dated 01.08.2023 (Annexure P-2) in CWP No.22441 of 2025 whereby the claim of the respondent employees has been accepted as well as to the order passed by the appellate authority dated 04.02.2025 (Annexure P-3) in all the writ petitions by which, the appeal filed by the petitioners against the order of the Controlling Authority, has been dismissed on the grounds of delay.

3. Learned counsel appearing on behalf of the petitioners submits that once an appeal was preferred, it becomes the duty of the Appellate Authority to decide the lis between the parties on merits and dismissing the appeal on the ground of delay, is incorrect hence, the respondent-appellate authority is directed to decide the appeal filed by the petitioners against the order of the Controlling Authority dated 29.08.2023 (Annexure P-2) in CWP No.22432 of 2025 and CWP No.22442 of 2025 and dated 01.08.2023 (Annexure P-2) in CWP No.22441 of 2025 on merits.

4. I have heard the counsels appearing on behalf of the petitioners and has gone through the records of the present case with their able assistance.

5. It may be noticed that the Controlling Authority decided the issue between the parties on 29.08.2023 (Annexure P-2) in CWP No.22432

of 2025 and CWP No.22442 of 2025 and dated 01.08.2023 (Annexure P-2) in CWP No.22441 of 2025.

6. As per the provisions of the Payment of Gratuity Act, 1972 (hereinafter referred as “1972 Act”), the appeal against the orders passed by the Controlling Authority is to be preferred within a period of 60 days and in case, the same is not done, the delay for a further period of 60 days can be condoned by the appellate authority beyond which, there is no power given to the Appellate Authority to condone the delay. Concededly, in the present petitions, the delay in filing the appeal is more than 120 days hence, the same has been rejected by the Appellate Authority vide impugned order dated 04.02.2025.

7. Further, the issue whether, an appeal filed beyond the maximum delay of 120 days can be entertained on merits by condoning the delay or not, came up for consideration before the Hon’ble the Supreme Court of India in **Civil Appeal No.8276-2019** titled ***Superintending Engineer/Dehar Power House Circle, Bhakra Beas Management Board Vs. Excise and Taxation Officer, Sunder Nagar***. The relevant paragraph of the said judgment is as under:-

“19. In commission of Customs, Central Excise, Noida v. Punjab Fibres Ltd., Noida (200) 3 SCC 73, a question arose of condonation of delay in filing reference application to the High Court. It has been held that Section 5 is not applicable. In the said case, the Court has followed the decision in Singh Enterprises v. Commissioner of Central Excise, Jamshedpur and Ors., (2008) 3 SCC 70. In Singh Enterprises (supra), it has been held:*

“6 At this juncture, it is relevant to take note of Section 35 of the Act which reads as follows”

“35. Appeals to Commissioner (Appeals). ----(1) Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer, lower in rank than a Commissioner of Central Excise, may appeal to the Commissioner of Central Excise (Appeals) [hereafter in this Chapter referred to as the Commissioner (Appeals)] within sixty days from the date of the communication to him of such decision or order: Provided that the Commissioner (Appeals) may if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days. (2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.”.....

8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of statute are not vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Limitation Act, 1963 (in short "the Limitation Act") can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days, but in terms of the proviso, further 30 days' time can be granted by the appellate authority to entertain the appeal. The proviso to subsection (1) of Section 35 makes the position crystal clear

that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days, which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days' period."

8. From the bare perusal of the above, it is clear that the delay beyond the permissible limited under the statute which is within jurisdiction of Appellate Authority cannot be condoned. Further, the similar question of law also came before this Court in **CWP No.1121 of 2025** titled "**Bank of Baroda Vs. Union of India and ors.**" decided on 17.02.2025, wherein also, the same view has been taken by this Court.

10. Learned counsel for the petitioner has not been able to rebut the settled principle of law noticed hereinbefore.

11. Keeping in view the above, as the appeal preferred by the petitioner was beyond the maximum period prescribed under the 1972 Act for condonation of delay hence, the appeal filed against the order of Controlling Authority has rightly been rejected the Appellate Authority being time barred.

12. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

13. Present petitions stand dismissed.

CWP-22432-2025 (O&M).
CWP-22441-2025 (O&M) and
CWP-22442-2025 (O&M)

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- 14 Pending application, if any, also stands disposed of.
15. Photocopy of this order be placed on the file of other connected cases.

05-08-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO