



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CWP No.6337 of 2020 (O&M)

Date of Decision:03.04.2025

**Vidya Niketan School, 2 M, NIT, Faridabad (Hry.) Through Smt. Abha
Mittal**

..Petitioner

Versus

Smt. Rekha Sachdeva and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.K. Malik, Sr. Advocate with
Mr.Ankur Sheoran, Advocate
for the petitioner.

Mr. Anshul Sharma, Advocate
for respondent No.1.

HARSIMRAN SINGH SETHI, J.(ORAL)

CM-5031-CWP-2025

The present application is for placing on record a copy of replication dated 27.03.2025, filed on behalf of respondent No.1.

Keeping in view the averments made in the application, which is duly supported by an affidavit, the same is allowed. Replication is taken on record.

Main Case

1. Learned senior counsel for the petitioner argues that in the present petition, against the order passed by the Controlling Authority envisaged under the Payment of Gratuity Act, 1972, an appeal was preferred by the petitioner, though, the same was preferred beyond the prescribed

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limitation period of 60 days, but, the Appellate Authority had power to condone the delay only upto 60 days and, therefore, in the present case, the delay is less than 60 days, the Appellate Authority had power to condone the same, whereas despite the fact that the delay on part of petitioner to file an appeal in the present case was within the jurisdiction of the Appellate Authority, to be decided to be condoned or not whereas, the appeal has been dismissed, by the appellate authority by stating that the jurisdiction to condone the delay does not exist with the Appellate Authority, which is incorrect.

2. Learned counsel for respondent no.1 does not dispute the fact that in the present case the Appellate Authority had not crossed the outer limit, so as to dismiss summarily.

3. I have heard learned counsel for the parties and have gone through the documents, annexed with the writ petition carefully.

4. A bare perusal of the impugned order would show that the application seeking condonation of delay in filing the appeal has not been dismissed by the appellate authority on the ground that the Appellate Authority does not want to condone delay in view of the facts of the present case but the said application has been dismissed on the ground that the Appellate Authority does not have the jurisdiction to condone the same.

5. As per the rules, the 60 days even after expiry of prescribed limitation period of 60 days, can be condoned, whereas, in the present case, on the expiry of 60 days of limitation, the second leg of 60 days had not been crossed. as within a period of next 53 days, the appeal was preferred by the petitioner. Hence, the jurisdiction existed with the Appellate Authority

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so as to decide whether the delay caused in preferring the appeal needs to be condoned or not.

6. The impugned order is hereby set aside and the appeal is remanded back to the Appellate Authority envisaged under the Payment of Gratuity Act, 1972 to pass appropriate orders on the application, filed by the petitioner, seeking condonation of delay of 53 days.

7. It is made clear that whether the said delay is to be condoned or not will be solely the discretion of the Appellate Authority and no order on this aspect is being passed by this Court.

8. Ordered accordingly.

9. Pending application(s), if any, also stand(s) disposed of.

**(HARSIMRAN SINGH SETHI)
JUDGE**

03.04.2025

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1. *Whether speaking/reasoned?* **Yes**

2. *Whether reportable?* **No**