

31.5.2017

Present: Mr. Sanjay Bhardwaj, Advocate, vice counsel for the applicants.

None for respondents No. 1 to 4.

Mr. Aman Sood, Advocate, for respondent No.5.

CMP(M) No. 834 of 2015

Despite several opportunities granted to the counsel for respondent No.5, he has failed to avail them. Consequently, it is deemed fit to not afford any further opportunity to respondent No.5 to adduce his evidence.

On the basis of the pleadings of the parties at contest, this Court was constrained to strike the following issues, for pronouncement of a verdict thereupon:-

- i) Whether there are sufficient grounds for condonation of delay as alleged? Onus placed upon applicants.
- ii) Whether applicants have no cause of action to file application as alleged? Onus placed upon non-applicants.
- iii) Relief.

2. The applicant No.1 while stepping into the witness box as PW-1, has testified in consonance with the apposite averments, occurring in the application at hand, wherein she discloses qua hers for want of sufficient financial means, hence being constrained to not within time, file an appeal against the award, recorded by the learned MACT, Solan. She also testified that she had borrowed a sum of Rs. 10,000/- from PW-2, latter whereof while stepping into the witness box, has supported the

aforesaid testification of the applicant. Despite the counsel for the non-applicant No.5 holding them to an exacting cross-examination, he was unable to erode their respective testifications borne in their respective examinations-in-chief nor he was able to adduce on record the relevant best evidence comprised in the bank account of the applicant at the time contemporaneous to the rendition of the impugned award hence holding sufficient funds. For want of the aforesaid evidence, the plea canvassed by the applicant in the apposite application that she was not possessed with sufficient financial means, to institute within time an appeal before this Court against the impugned award besides her testifying in consonance therewith, is construable to be holding sufficient credit. In sequel, it is held that the applicant has been able to adduce cogent evidence upon the apposite issue. The application is allowed. Delay is condoned. The application stands disposed of.

FAO No. _____/2017

Be registered.

List along with FAO No. 389 of 2015.

31st May, 2017
(kck)

**(Sureshwar Thakur),
Judge.**