

Chief Justice's Court

Case :- SPECIAL APPEAL DEFECTIVE No. - 247 of 2023

Appellant :- Manish Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Health And Family Welfare Civil Sectr. U.P. Lko. And Others

Counsel for Appellant :- S.P. Singh Somvanshi, Dilip Kumar Chaudhary, Sanjay Kumar

Counsel for Respondent :- C.S.C., Ashutosh Misra, Suresh Kumar Pandey

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Rajan Roy, J.

Order on Condonation of Delay Application No. 01 of 2023

This is an application seeking condonation of delay in filing the special appeal.

For the reasons mentioned in the affidavit in support of the application, the same is **allowed**.

Delay in filing the appeal is condoned.

Office to allot regular number to the appeal.

Order on Memo of Appeal

Heard Shri S.P. Singh Somvanshi, learned Counsel for the appellant, Shri Rajesh Tiwari, learned Additional Chief Standing Counsel for the State, Shri Ashutosh Mishra, learned Counsel for the opposite party no. 5 and Shri Suresh Kumar Pandey, learned Counsel for the opposite party no. 6.

Late Chhaya Devi was an employee of the health department and at the time of her death was working as ANM, District - Gonda. She died on 11.01.2019 leaving behind the appellant and opposite parties no. 5 & 6.

The writ petition was filed by the appellant, Manish Kumar, claiming compassionate appointment and death cum retiral dues. By the impugned order, learned Single Judge has held that regarding dues, nominees would be entitled whereas for appointment on compassionate ground, consideration afresh has been directed to the competent authority. Regarding dues, appellant has been granted liberty to pursue remedy available to

him before the competent Court.

Pursuant to the previous order passed by this Court, appellant and the opposite parties no. 5 & 6 are present. Though, the appellant is ready to go for mediation but the same has been categorically denied by the opposite parties no. 5 & 6.

Learned Counsel for the State and private opposite parties submit that the order impugned is strictly in accordance with law and there is no infirmity in the same.

We find no illegality in the order impugned which has been passed based on facts and pleadings. In fact, right of any person has not been decided by the writ Court as yet and liberty has been granted to the parties to go and contest their case before the appropriate forum. So far as, mediation is concerned, we are of the opinion that no such order can be passed unless opposite parties no. 5 & 6 give their consent.

In view of the above, the writ petition is **disposed of**.

Any finding recorded above shall not come in the way of parties to amicably settle the matter, if parties so decide.

Order Date :- 16.5.2023
Lokesh Kumar

[Rajan Roy, J.] [Pritinker Diwaker, C.J.]