

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 779 of 2023

Appellant :- Pradeshik Cooperative Dairy Federation Ltd. Lko.
Thru. Managing Director And Others

Respondent :- Ram Chandra Bajpai And Another

Counsel for Appellant :- Pankaj Patel

Counsel for Respondent :- Sanjay Kumar Srivastava,C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

**(C.M. Application No.1 of 2023: Application for
Condonation of Delay)**

1. Heard learned counsel for the appellants and Shri Sanjay Kumar Srivastava, learned counsel for respondent No.1 as well as learned Standing Counsel representing the State-respondent No.2.

2. There is delay of 100 days in filing the special appeal. The appeal is accompanied with an application for condonation of delay supported by an affidavit.

3. Learned counsel for respondents do not have any objections, if delay in filing the instant appeal is condoned and the matter is heard on merits.

4. Cause shown in the affidavit filed in support of application for condonation of delay is satisfactory and in absence of any objection, application for condonation of delay is allowed and delay in filing the special appeal is hereby condoned.

(order on appeal)

5. The *intra-Court* appeal filed under Chapter VIII Rule 5 of Allahabad High Court Rules, 1952 seeks to challenge the

judgment/order dated 31.05.2023 passed by the writ Court in Writ-A No.4275 of 2023. The writ petition filed by the respondent was allowed with a direction that the order passed by the competent authority on 13.09.2018 shall not be treated to be a punishment order coming in the way of grant of service benefits admissible to the respondent-employee.

6. It is to be noted that the unauthorized absence on the part of the respondent No.1-employee gave rise to the disciplinary proceedings which were initiated against him. In the enquiry held against the delinquent employee i.e. respondent No.1, the explanation offered by him for the period of absence was found plausible. The explanation having been found plausible by the disciplinary authority because the basis of his reinstatement on humanitarian grounds, however, the wages admissible to him during the period of absence were withheld on the principle of 'no work no pay'. An order was accordingly passed on 13.09.2018. The respondent No.1 is working in pursuance of the order of reinstatement since then which has attained finality.

7. The promotional pay-scale on completion of 19 and 24 years which fell due became the subject matter of consideration in the aforementioned writ petition for which the relief was sought. This Court while disposing of the writ petition on the benefit of promotional pay-scale has issued a direction that the order dated 13.09.2018 may not be treated to be an order of punishment.

8. Shri Sanjay Kumar Srivastava, learned counsel for respondent No.1, has argued that once the enquiry officer had found the explanation offered by the respondent No.1 as just and proper, whereafter, the disciplinary authority on his satisfaction has reinstated the petitioner in service without any stigma, there is no reason as to why such an order may be

treated to be a punishment coming in the way of promotional pay scale.

9. Having gone through the impugned judgment/order and the reasoning assigned therein, we are of the considered opinion, that the direction issued by the writ Court does not suffer from any illegality calling for an interference in the present *intra-Court* appeal. The humanitarian approach adopted by the disciplinary authority must hold good for future benefits based on satisfactory service.

10. The appeal is, accordingly, **dismissed**.

(Om Prakash Shukla, J.) (Attau Rahman Masoodi, J.)

Order Date :- 11.10.2023

Shubhankar