

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 786 of 2023

Appellant :- Managing Director Pradeshik Cooperative Dairy Federation Ltd. Lucknow

Respondent :- Ashish Kumar Srivastava And Another

Counsel for Appellant :- Lalit Shukla

Counsel for Respondent :- Aman Shankar

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 Shri Lalit Shukla, learned counsel for the appellant and learned counsel for the respondent No.1.
2. There is delay of 12 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 respondent No.1 does not have any objection, 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 the Allahabad High Court Rules, 1952 has assailed the judgment/order dated 22.08.2023 passed by the writ Court in Writ-A No.6137 of 2023.

6. The challenge to the impugned judgment/order dated 22.08.20223 is confined to the payment of interest on the amount due which was computed as a consequence of grant of promotional pay scale on completion of 19 and 24 years of satisfactory service. The amount due has already been paid to the respondent No.1-employee.

7. It is to be noted that the respondent No.1-employee had opted for voluntary retirement under the scheme in the year 2016 but the benefit of promotional pay scale on account of an audit objection remained pending with the appellant-organization.

8. By an order passed on 23.12.2022, the benefit of promotional pay scale on completion of 19 and 24 years of satisfactory service was however granted in favour of the respondent and the actual payment has also been made after passing of the impugned judgement/order in Writ-A No.6137 of 2023 on 22.08.2023. The interest component has not been paid till date. It is this part of the payment, pursuant to the order

passed by the writ Court which has come to be challenged in the present special appeal.

9. Once the principle amount has been paid to the respondent pursuant to the same very judgment, there is no reason as to why delayed payment may not be compensated at the rate of 7% per annum ordered by the writ Court.

10. We see no good reason to interfere in the present special appeal, the same is hereby **dismissed**.

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

Order Date :- 13.10.2023
Shubhankar