

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 921 of 2023

Appellant :- Pradeshik Co-Operative Dairy Federation Ltd. Lko. Thru
Managing Director And Another

Respondent :- Virendra Kumar And 32 Others

Counsel for Appellant :- Lalit Shukla

Counsel for Respondent :- Pradeep Kumar Tripathi

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

1. Heard Sri Lalit Shukla, learned counsel for the appellants and Sri Sanjay Kumar Srivastava, learned counsel representing the respondents No.1 to 32. Learned State Counsel has also been heard for the respondent No.33.

2.Having regard to the averments made in the application seeking condonation of delay, we are satisfied that delay in filing the special appeal has sufficiently been explained.

3.Accordingly application is allowed and delay in filing the special appeal is hereby condoned.

(order on special appeal)

1.This intra-Court appeal seeks to challenge an order dated 19.09.2023 passed by learned Single Judge whereby Writ-A No.6870 of 2023 filed by the private respondents has been disposed directing the appellants to pay 6% per annum interest on the leave encashment amount from the date when the amount fell due till actual payment is made. Certain other directions have also been issued by the learned Single Judge in the order under challenge herein.

2.Learned counsel for appellants has stated that so far as the direction relating to passing a fresh order for payment of ex-gratia is concerned, the appellants are not aggrieved and as a matter of fact in compliance of the order dated 19.09.2023 passed by learned Single Judge requisite orders have also been passed. He has however stated that regarding rest of the directions issued by learned Single Judge in the order dated 19.09.2023, there is no provision for payment of interest on the amount of leave encashment.

3.In this regard, we may only observe that even if

there is no provision and delay occurs at the end of the employer in making payment of leave encashment, the employee will be entitled for such interest.

4.It has also been argued by Sri Lalit Shukla that responsibility of difference of leave encashment has been saddled with the Managing Director of the appellant-Federation whereas said amount is payable by the Milk Union concerned.

5.There is no dispute that private respondents are the employees of the Federation and as such any liability of payment of difference of amount of leave encashment has to be saddled upon the employer and no one else.

6. For the aforesaid reasons, we are not persuaded to interfere in the order passed by learned Single Judge.

7. Special appeal, being devoid of merit, is hereby dismissed.

Order Date :- 6.12.2023

Shahnaz