

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 923 of 2023

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

Respondent :- Gopi Nath And Another

Counsel for Appellant :- Pankaj Patel, Akanksha Gupta

Counsel for Respondent :- Prashant Chandra, C.S.C.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

C.M.A. No.1 of 2023 (Application for condonation of delay)

1. Heard Shri Pankaj Patel, learned Counsel for the appellants, Shri Prashant Chandra, learned Counsel for respondent no.1 and learned Standing Counsel for respondent no.2.

2. There is reported delay of 154 days in filing the present intra-court appeal under Chapter VIII Rule 5 of the High Court Rules. 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 special appeal is condoned.

4. Cause shown being sufficient and in absence of any objection, the application for condonation of delay is allowed and the delay in filing the appeal is hereby condoned.

Order on Appeal

5. This *intra-court* appeal filed under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 has assailed the judgment/order dated 02.05.2023 passed by the Writ Court in Writ-A No.2965 of 2023.

6. The challenge to the impugned judgment/order dated 20.04.2023 is confined to the interest component on the amount

due against leave encashment payment whereof was delayed by one year.

7. It is to be noted that the respondent no.1 retired on 31.07.2020 and had earned leave encashment. The amount of leave encashment was released after a delay of one year on account of some audit objection and in this manner there was an inordinate delay in making the payment.

8. Once the principle amount has been paid to the respondent no.1, there is no reason as to why delayed payment may not be compensated at the rate of 7% per annum as ordered by the Writ Court. Moreover, the delay is not attributable to anything done by the respondent no.1 and was a procedural formality to be expedited by the employer alone.

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

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

Order Date :- 5.12.2023

Anand Sri./-