

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 937 of 2023

Appellant :- U.P. Cooperative Bank Ltd. , Lko. Thru. Managing Director
And Another

Respondent :- Kalawati And Others

Counsel for Appellant :- Vijay Pratap Singh

Counsel for Respondent :- Sridhar Awasthi

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 Vijay Pratap Singh, learned Counsel for the appellants and Shri Sridhar Awsthi, learned Counsel who has put in appearance on behalf of respondents.

2. There is reported delay of 71 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 the respondents does not have any objection if delay of 71 days 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 Chapter VIII Rule 5 of the High Court Rules is directed against the judgment/order dated 28.08.2023 passed in Writ-A No.6389 of 2023 whereby a limited relief has been allowed in favour of the respondents-petitioners.

6. The respondents-petitioners on their own volition forewent the relief sought in prayer clause no.2, thus, the writ petition was confined to relief clause no.1, i.e. restricting their claim for interest on the delayed payment of gratuity, provident fund and leave encashment.

7. There is no dispute on the fact that the payment due under the aforesaid heads was released in favour of the respondents-petitioners with some delay. The Writ Court referring to the provisions of Payment of Gratuity Act has ordered that an interest of 7% on the dues payable be also released in favour of the respondents-petitioners for the period of delay. Learned Writ Court while considering the grievance raised has referred to the statutory provision according to which the interest was payable. Post retiral dues of an employee is a property owned by the retiree which ought to be released without any delay. The delay in the present case having been noticed significant has, thus, entitled the respondents-petitioners for payment of 7% interest on the delayed payment for the period regarding which there is no dispute.

8. On due consideration of the judgment/order impugned herein in this special appeal, we do not find that the impugned judgment/order suffers from any illegality which may call for interference in exercise of our appellate jurisdiction.

9. The appeal being bereft of any merit is hereby **dismissed**.

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

Order Date :- 15.12.2023

Anand Sri./-