

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 976 of 2023

Appellant :- Prin. Secy. Basic Education U.P. Govt. Lko. And 2 Others

Respondent :- Hari Kishore Shukla

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Katyayan Mishra

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Jaspreet Singh,J.

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

1. Heard learned Standing Counsel for the Appellants-State and Shri Katyayan Mishra, learned counsel for the respondent.
2. There is reported delay of 55 days in filing the present intra-Court appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952. The appeal is accompanied with an application for condonation of delay supported by an affidavit.
3. Learned counsel for the respondent 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 questioned the legality of the judgment and order dated 20.09.2023 passed by the writ Court in WRIT-A No.6258 of 2023.
6. On perusal of the impugned judgment, we find that the benefit of period of ten years inclusive of the service rendered in the previous institution was considered by the writ Court and decided previously in WRIT-A No.8752 of 2020. The judgment rendered by the writ Court in the previous writ petition was not assailed and has attained finality. This fact has been taken note of by the writ Court in the subsequent judgment, which is impugned herein.
7. Once finality was attached to the previous judgment passed

by the writ Court and the same was relied upon, we do not find any error or irregularity in the impugned judgment, insofar as, the reliance placed upon the previous judgment is concerned. Finality attached to the previous order having remained unassailed leaves no scope for interference in exercise of appellate jurisdiction. Thus, the special appeal bereft of any merit is accordingly dismissed.

(Jaspreet Singh, J.) (Attai Rahman Masoodi, J.)

Order Date :- 22.12.2023

Rakesh/-