



2025:AHC-LKO:84711-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 522 of 2024

State of U.P. through Prin. Secy. Deptt. of Higher Education Lko and 2 others Appellant(s)

Versus

Vimlesh Kumar Jaiswal and 2 others Respondents(s)

With

SPECIAL APPEAL DEFECTIVE No. - 523 of 2024

State of U.P. through Prin. Secy., Deptt. of Higher Education, Lko. Appellant(s)

Versus

Vimlesh Kumar Jaiswal And 4 Others Respondent(s)

Counsel for Petitioners(s)	:	Anand Kumar Singh (S.C.)
Counsel for Respondent(s)	:	Vidhu Bhushan Kalia

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

1. These appeals are directed against order dated 28.03.2023 passed by learned Single Judge, whereby two writ petitions, filed by the respondents, have been allowed by a common judgement.

2. Learned Single Judge directed as under:-

*“20. Considering in totality of facts and circumstances of the case as also the fact that one Shri Amar Nath Sharma, similarly placed person was granted benefit of revised pay scales, both the writ petitions are **allowed**. Orders dated 5.10.2005 passed by the State*

Government and order dated 16.3.2007 passed by respondent no. 1 are hereby quashed.

21. However, the respondents are directed to provide the benefits as has been granted to Shri Amar Nath Sharma who was also granted appointed on the post of Craft Teacher and was given the benefits of revised pay-scale within a period of three weeks from the date of production of a certified copy of this order, with all consequential benefits.”

3. Feeling aggrieved, the State is in appeal. The appeals are barred by 514 days. Application under Section 5 of the Limitation Act has been filed supported by affidavit.

4. It is *inter alia* claimed that copy of the judgement dated 28.03.2023 was served by the respondents on 03.05.2023. The Directorate referred the matter to the State Government. The State Government required brief history of the case and documents on 25.05.2023, which was sent on 13.06.2023. On 22.08.2023, the Assistant Director of Education informed that respondents have filed a contempt petition, wherein on 31.05.2023, direction was issued by the Court for filing compliance affidavit. The State Government required the documents on 22.08.2023 and comments on 14.09.2023. A five-Members Committee was constituted to consider the matter pertaining to the claim of the respondents, which recommended that pay fixation of Amar Nath Sharma was liable to be cancelled, which was cancelled on 23.02.2024. Whereafter, legal opinion from Chief Standing Counsel was sought on 06.03.2024, which was issued on 09.04.2024 for filing special appeal. The Law Department granted permission on 27.06.2024. The matter was referred to the Standing Counsel on 26.07.2024 for filing appeal. Learned Standing Counsel sought documents on 01.08.2024 and on furnishing the explanation for delay on 13.08.2024, the appeals have been filed on 21.09.2024.

5. Submissions have been made that delay in filing the special appeals is genuine, *bona fide* and unintentional and the same could not be filed in time due to administrative formalities and on account of following

certain norms and procedure of discipline and systematic performance of official functions, it is prayed that the delay be condoned.

6. Learned Standing Counsel made submissions that the delay in filing the appeals is not deliberate and only on account of the procedure involved and the indifferent nature of the official machinery, delay occurred in filing the appeals and, therefore, the same be condoned.

7. Counsel for the respondents vehemently opposed the submissions. It was submitted that the entire action of the appellants is *mala fide* inasmuch as when the learned Single Judge has required the appellants to accord parity to the respondents with one Amar Nath Sharma, instead of doing the needful, the benefit granted to said Amar Nath Sharma has been withdrawn, which action is wholly *mala fide*, highhanded and arbitrary. The purported explanation indicated in the affidavit is nothing but merely a formality under the impression that the appellants, being State, have the liberty to seek condonation of delay, irrespective of their conduct. It was prayed that the application be dismissed.

8. We have considered the submissions and have perused the material available on record.

9. The sequence of events, as noticed hereinbefore, as disclosed in the affidavit, filed in support of application seeking condonation of delay, is reflective of the negligent and callous attitude of the appellants in dealing with the matters, wherein determination has been made and time bound directions have been given by the Court.

10. The learned Single Judge had granted three weeks' time from the date of production of a certified copy of the order for grant of benefits, which though the State was duly represented and was aware of the order on the date of pronouncement itself, still was admittedly received by the appellants on 03.05.2023 and for non-compliance of the directions issued, on 31.05.2023 High Court had issued notices in the contempt petition. However, despite the above facts, the appeals were filed on

21.09.2024 i.e. after one year and 4 months after the notice in contempt was issued to the appellants.

11. Further, instead of complying with the directions for according parity to the respondents with Amar Nath Sharma, after passing of orders, benefit given over a period of 50 years to said Amar Nath Sharma has been ordered to be cancelled on 23.02.2024 and despite passing of the order in the month of February, still it has taken the appellants seven long months in questioning the validity of the order passed by learned Single Judge on the sole ground of withdrawal of the order in favour of Amar Nath Sharma, which action, to say the least, cannot be called *bona fide*.

12. The lethargic attitude on the part of the State and its instrumentalities has been frowned upon by Hon'ble Supreme Court in **Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563** wherein, while dealing with the appeals filed on behalf of the State, by its agencies and government bodies, it was, inter alia, observed as under:

“29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

(emphasis supplied)

13. Recently, Hon'ble Supreme Court, in **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others**: Civil Appeal No. 11794 of 2025, decided on 12.09.2025, after scanning the entire law on the subject, observed as under:

"262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.

263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."

14. In view of the above discussion, we find that there being unexplained delay and latches in filing the appeals and the purported reasons indicated in the affidavit does not answer the requirement of a sufficient cause for filing the appeal with a delay of 514 days, the same cannot be condoned.

15. In view of the above discussion, the application seeking condonation of delay is dismissed. As a result, the appeals are dismissed as barred by limitation.

(Jaspreet Singh, J.) (Arun Bhansali, C.J.)

December 16, 2025

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