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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 545/2016

GOVERNMENT OF J & K & ANR.

..... Appellants

Through Ms. Manjula Gupta & Mr. G.M.
Kawoosa, Advocates.

versus

DR UMESH KUMAR MOZA

..... Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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30.09.2016

CM No. 36556/2016

In view of the averments made in the application, the same is allowed.

CM No. 36555/2016

There is delay of 775 days in filing of the present Letters Patent Appeal. The only reason given in this application for condonation of this prolonged delay is that the matter was examined by different departments, including Department of Law and thereafter it was decided that the present appeal should be filed. Learned counsel for the applicant submits that the appellant is a State Government and, therefore, the delay notwithstanding the period should be condoned.

We are not inclined to condone the inordinate and long delay of 775 days in filing of the present Letters Patent Appeal impugning the judgment and order dated 31st October, 2014 passed by the learned single Judge in Writ Petition (C) No. 1104/2013 titled *Umesh Kumar Moza and others*

versus Government of J & K and Another.

This is not a case wherein the respondent had exerted any influence to prevent, or in any way had tried to interfere with the decision making process, whether or not an appeal should be preferred. This is not a case where indulgence and a liberal approach should be mechanically exercised to condone this delay of 775 days, for the State Government, notwithstanding the time stipulated in the statute, took time to decide and reach a conclusion.

The writ petitioner is a doctor and an employee of the Department of Health and Medical Education, Government of Jammu and Kashmir. He was earlier working in the State hospitals in Srinagar, but had to migrate to Delhi. The impugned judgment refers to the Cabinet decision No. 116 dated 20th July, 1988 and the Government order No. 595 HME of 1988 dated 22nd July, 1988, as per which the respondent was entitled to benefits in form of time bound promotions. The respondent was belatedly granted time bound promotion under the scheme with effect from 1st April, 2003, notionally, and monetarily, with effect from 1st April, 2011. The case of the writ petitioner, which has been accepted in the impugned decision, is that he should be paid monetary benefits from the date he was entitled to the same, i.e. 1st April, 2003.

There were two other doctors, namely Ashok Kumar Dhar and Roop Kishan Kaul, who were granted identical relief. The appeal has been filed in the case of Umesh Kumar Moza, and not in the other cases. On being asked, learned counsel for the appellant is unable to state whether an appeal has been preferred against the identical relief granted to Ashok Kumar Dhar and Roop Kishan Kaul. She states that she has no instructions, and affirms that

she has not been asked to prefer any appeal in the said cases.

Keeping in view the unexplained delay and as sufficient cause and ground is not established and shown, we do not find any merit in the application seeking condonation of delay in filing of the appeal. The same is dismissed.

LPA No. 545/2016

In view of dismissal of CM No.36555/2016, LPA would be treated as dismissed.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

**SEPTEMBER 30, 2016
VKR**