2026:AHC:209770-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 732 of 2026

State Of Up And 2 Others

.....Appellant(s)

Versus

Arun Kumar Yadav

.....Respondent(s)

Counsel for Appellant(s)	:	C.S.C., S.C.
Counsel for Respondent(s)	:	Atipriya Gautam

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

Ref.: Civil Misc. Delay Condonation Application No.01 of 2026

1. Heard Sri Arimardan Singh Rajpoot, learned Additional Chief Standing Counsel for the State-appellants, Sri Vijay Gautam along with Sri Devesh Mishra, learned counsel for the original petitioner-respondent and perused the record.

2. Present intra-Court appeal has been filed against the order of the learned single judge dated 15.12.2022 in Arun Kumar Yadav vs. State of U.P. and 2 others (Writ-A No.7447 of 2021), wherein following the coordinate bench decision in **Yadunath Singh vs. State of U.P. and others, 2009 (9) ADJ 86**, and other decisions, the writ petition was allowed and the order dated 10.10.2020, whereby the petitioner had been dismissed from service without holding any inquiry in exercise of powers under Rule 8(2)(b) of the U.P. Police Officers of Subordinate Rank (Punishment and Appeal) Rules, 1991, was quashed and the writ petition has been allowed. For ready reference, the operative portion of the order reads as below:

> *"9. The writ petition is allowed. The impugned order dated 10.10.2020 (Annexure 1 to the writ petition) is hereby quashed. Petitioner shall be entitled for all consequential benefits.*
>
> *10. However, this order shall not preclude the respondents from passing a fresh order in accordance with law. "*

3. The present appeal has been filed carrying a delay of 1354 days. As to

the explanation of the delay, only this much has been disclosed that with respect to the order impugned, legal opinion was sought on 03.03.2023, i.e., almost three months after the judgment. It was furnished on 13.03.2023. Necessary approval from the office of the Legal Remembrancer was granted on 03.05.2023, wherein, the Deputy Secretary State Government granted permission to file the appeal on 09.05.2023. Thereafter, no explanation exists for 5 months. However, on 09.10.2023, the office of the learned Chief Standing Counsel had expressed an opinion in the negative with respect to filing of the instant appeal. From 09.10.2023 to 25.05.2025, i.e., for more than two and a half years, absolutely no explanation exists.

4. Suddenly, thereafter, on 21.08.2026, at the insistence of the A.D.G. Prayagraj Zone Prayagraj, permission appears to have been again granted to file the present appeal. On such efforts, the S.P. Banda is described to have written to the learned Chief Standing Counsel on 15.09.2026 to file the appeal. Pursuant thereto, this appeal has been filed.

5. In the present case, there is any explanation for the initial delay of almost more than two and a half months from the date of the order till the date of opinion sought. Even if we were to overlook that delay or condone it, there is absolutely no reason or explanation why the authorities sat over the matter for almost two and a half years from 09.10.2023 to 25.05.2025.

6. Since the office of the Chief Standing Counsel had expressed opinion in the negative-to not file any intra-Court appeal, by conduct, the respondents are shown to have acted on that opinion by not pursuing the matter any further for almost two and a half year. What change of circumstance may have prompted the appellants to seek a fresh opinion on 25.05.2025, whereupon after about four months the appeal has been filed, has not been disclosed.

7. Clearly, the conduct of the respondents appears to set up a defence in contempt proceedings that are still pending.

8. To the extent, respondents appear to have accepted the order of learned single judge upon opinion expressed by the learned Chief Standing Counsel, there exists no explanation for the delay as made to be

satisfactory or as may inspire the confidence of the Court. Also, it appears that no action may have been taken by the respondents in furtherance made in paragraph No.10 of the impugned order.

9. Keeping in mind the principles contained in **Shivamma (Dead) vs. Karnataka Housing Board and others, 2025 SCC OnLine SC 1969**, the present application for delay condonation is **rejected**.

Ref.: Appeal

10. In view of the above, the present appeal is consigned to record.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

October 7, 2026

Anurag/-

Digitally signed by :-
ANURAG JAISWAL
High Court of Judicature at Allahabad