



2026:AHC-LKO:377-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 509 of 2025

Rama Kant Tiwari

.....Appellant(s)

Versus

U.P. State Bridge Corporation Ltd. Thru. Managing
Director Lko. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Dinesh Kumar Tripathi
Counsel for Respondent(s)	:	Shishir Jain

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(C.M. Application No.1 of 2025)

1. This is an application seeking condonation of delay in filing the appeal.

2. Heard.

3. There is a delay of 58 days in filing the appeal. Counsel for the opposite parties has orally objected the prayer for condonation of delay.

4. We have gone through the affidavit filed in support of application for condonation of delay and find that the reasons mentioned therein are sufficient. Accordingly, we condone the delay, which is not inordinate. The application is accordingly allowed.

(Order on memo of appeal)

5. After hearing the parties and perusing the records ultimately what comes out is that though the petitioner-appellant was engaged as Helper in 1985 by the opposite parties and a service book was also prepared, however, the said service book at some subsequent point of time went missing. Consequently, in the year 2009 another service book was prepared and according to learned counsel for the opposite parties, the date of birth was entered in the said service book on the basis of

certificate of medical officer as 08.02.1964. On being asked as to where is the said medical certificate, Sri Shishir Jain, learned counsel for the opposite parties-Corporation submitted that subsequently the said certificate has also gone missing. Learned counsel for the appellant has also invited our attention to various documents prepared by the officials of the opposite parties wherein the date of birth is mentioned as 15.02.1966. There are several documents some of which relating to the employee's master data referring to the said date. However, learned counsel for the opposite parties, on the other hand, has invited our attention to other documents wherein the date of birth is mentioned as 08.02.1964. It is for this reason the learned Single Judge has opined that there are disputed questions of fact which cannot be gone into under Article 226 of the Constitution of India.

6. We have gone through the impugned judgment and although it appears that there has been some fault on the part of the opposite parties also but no conclusive opinion can be formed as to what was the date of birth recorded in the initial service book at the time of engagement of the appellant-petitioner in 1985 and how in the subsequent service book prepared in 2009, the date of birth is recorded as 08.02.1964 but merely because of this, we cannot arrive at any conclusion as to what is the actual date of birth on the basis of which the appellant-petitioner should have been allowed to continue in service and to attain the age of superannuation. In view of the above discussion, reliance placed by learned counsel for the appellant upon a decision reported in (2022) 6 SCC 211 '**Shankar Lal vs. Hindustan Copper Limited and Ors.**' is misplaced for the reason that here it is not clear as to what was the date of birth mentioned in the initial service book which was prepared, a copy of which is not available. The basis for recording the date of birth in the subsequent service book i.e. the medical certificate as claimed by the opposite parties and as is mentioned in the photocopy of the subsequent service book is also not available. There are different documents containing different date of births some of which have been signed by the appellant-petitioner as also by the authorities concerned. In this view of the matter, we do not find any fault in the judgment of learned Single Judge as certainly these are disputed questions of fact. The remedy, if

any, would be for the appellant-petitioner before the civil court or the Public Services Tribunal constituted under the U.P. Public Services (Tribunal) Act, 1976, as the case may be.

7. Subject to the above, the appeal is **dismissed**.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 6, 2026
Shanu/-