



2026:AHC-LKO:3209-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 396 of 2025

State Of U.P. Thru. Prin. Secy. Deptt. Of Rural
Engineering And 2 Others

.....Appellant(s)

Versus

Sant Sevak Prasad Gaur And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	C.S.C.
Counsel for Respondent(s)	:	Sanjay Kumar Srivastava

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

**(Order on C.M.Application No.1 of 2025; Application for
Condonation of Delay)**

1. Heard learned Standing Counsel for the State and Shri Sanjay Kumar Srivastava, learned Counsel for the respondents.
2. This is an appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 by the State challenging the judgment and order dated 18.03.2024 and its correction dated 22.03.2024 passed in Writ A No.2132 of 2024 (Sant Sevak Prasad Gaur and Others vs. State of U.P. and Others).
3. The appeal has been filed on 23.09.2025. The defects have been removed on 24.09.2025. There is a delay of about 524 days' in filing of the appeal, limitation for which is prescribed under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 as thirty days vide Chapter IX Rule 10 of the Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963.
4. We have gone through the affidavit in support of the application for condonation of delay and find that though the judgment was rendered on 18.03.2024 and was amended on 22.03.2024 for the first time the appellants woke up when the respondents served the said judgment upon them and it is only then that the appellant concerned wrote a letter dated 29.04.2024 to the State Government for seeking a decision in the matter. As per the affidavit some deliberations took place in this regard and

finally on 12.06.2024 i.e. a good one and a half months later, a Government Order was issued by the Finance Department, Government of U.P. regarding the mode and mechanism for grant of annual increment after retirement, however, this was not retrospective nor did it specifically pertain to compliance of the judgment in question. Thereafter, a decision was taken regarding payment of increment to the respondents-petitioners in terms of the aforesaid Government Order dated 12.06.2024 which led to the filing of a Contempt Petition as the said decision was in teeth of the judgment passed by the Writ Court which is impugned herein. It is only after filing of Contempt Petition bearing No.433 of 2025 and issuance of notice to the appellants in the said proceedings, on 17.02.2025, the Directorate sought advise from the State Government regarding raising a challenge to this judgment dated 18.03.2024. Prior to it, none of the appellants thought it proper to seek any such legal opinion as to whether the judgment is required to be challenged or not. Surprisingly enough they took a decision as referred above, it appears, without even going through the judgment.

5. Be that as it may, almost a year passed away without any serious and sincere effort on the part of the appellants to challenge the impugned judgment. Even after the letter dated 17.02.2025, almost seven months passed before the appeal could be filed. In the interregnum i.e. after 17.02.2025, legal opinion was sought which was granted by the Additional Chief Standing Counsel on 24.03.2025 meaning thereby one and a half months was utilized merely to seek legal opinion whereas in this age of technology this could have been done in lesser time. Ultimately permission was granted by the Law Department on 02.06.2025 for filing special appeal i.e. more than two and a half months later about which there is no explanation. The affidavit merely narrates the movement of the file from one desk to another. On 30.07.2025, the Directorate wrote to the Chief Standing Counsel for allotment of the file which was allotted to the concerned Additional Chief Standing Counsel on 08.08.2025 and thereafter, the appeal was filed on 23.09.2025. None of the explanations offered in the affidavit persuade us to accept the same and condone the delay which is inordinate.

6. Tested on the anvil of the recent decision of Hon'ble the Supreme Court rendered in the case of ***Shivamma (Dead) by LRS vs. Karnatka***

Housing Board and another reported in ***2025 SCC OnLine 1969*** decided on 12.09.2025, we do not find any reason to condone the delay in filing this appeal, which is inordinate. Hon'ble the Supreme Court has held in the case of ***Shivamma (Dead) (supra)*** that the expression 'sufficient cause' is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilize the certainty that limitation law seeks to secure. The expression 'sufficient cause' must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence or a casual approach is discernible, condonation has been refused. The appellants have not acted with reasonable diligence nor is the explanation offered by them plausible and consistent with ordinary human conduct. There is negligence and casual approach on their part for the reasons already noticed herein-above.

7. Hon'ble the Supreme Court has further observed that the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether 'sufficient cause' has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay. Test of 'sufficient cause' cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on

explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain. Yet another practical reason has been given by Hon'ble the Supreme Court as to why merits must not be considered at the stage of delay condonation that is it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. Therefore, we cannot consider the merits of the matter at this stage.

8. Hon'ble the Supreme Court has also considered as to whether there was any room for largesse for State lethargy and leisure under Section 5 of the Limitation Act. After considering various earlier decisions on the subject, ultimately, it opined that prior to the decision of '**Postmaster General vs. Living Media India Ltd.**' reported in (2012) 3 SCC 563, the approach was characterized by judicial sympathy towards the State and its instrumentalities in matters of condonation of delay, owing to the peculiar nature of their functioning. At the same time, there also existed contrary views such as '**State of W.B. vs. Administrator, Howrah Municipality**' reported in (1972) 1 SCC 366 and '**Lanka Venkateswarlu (D) by LRS vs. State of A.P. and ors.**' reported in (2011) 4 SCC 363 which held that, irrespective of whether the litigant is a Government entity or a private individual, the provisions of limitation would apply uniformly, and any leeway shown by the courts would also remain the same. The law as it presently stands post the decision of Postmaster General (supra) as unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bonafide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant. Hon'ble the Supreme Court has further observed that on a combined reading of '**State of Rajasthan & Anr. vs. Bal Kishan Mathur (Dead) through Legal Representative**' reported in (2014) 1 SCC

592 and '*Sheo Raj Singh vs. Union of India*' reported in (2023) 10 SCC 531 it is equally manifest that the ratio of *Postmaster General (supra)* is, in essence, twofold. First, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would compromise the sanctity of limitation. Secondly, that the habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a 'sufficient cause' for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation. We have perused other parts of the said judgment including para 214 and onwards.

9. We accordingly, do not find any ground or explanation to condone the inordinate delay of 524 days' in filing this appeal. The application for condonation of delay is **rejected**, consequently, the appeal is also **dismissed**.

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

January 14, 2026

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