



2026:AHC-LKO:9879-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 201 of 2025

State Of U.P. Thru. Prin. Secy. Deptt. Of Ayush
Lko And 2 Others

.....Appellant(s)

Versus

Dr. Abhay Kumar Prajapati And Another

.....Respondent(s)

Counsel for Appellant(s) : C.S.C.

Counsel for Respondent(s) : Vimalesh Kumar Singh, Shivang
Tiwari

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE AMITABH KUMAR RAI, J.

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

1. Supplementary affidavit filed today by learned Counsel for the respondent No.1 is taken on record.
2. Heard Shri Kuldeep Nag, learned Additional Chief Standing Counsel for the State and Shri Shivang Tiwari, learned Counsel for the respondents.
3. This is an application seeking condonation of delay of 311 days in filing the special appeal under Chapter VIII Rule 5 read with Chapter IX Rule X of the Allahabad High Court Rules, 1952 against the judgment and order dated 31.05.2024 passed in Writ A No.4614 of 2024; Abhay Kumar Prajapati vs. State of U.P. and Others.
4. The limitation for filing special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is thirty days vide Chapter IX Rule 10 of the Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963.
5. We have gone through the affidavit in support of the application for

condonation of delay in filing this appeal and do not find the same to be satisfactory nor sufficient. The judgment impugned was received in the office of the appellants on 05.06.2024 yet, for the first time, the Directorate of Ayurvedic Services, Lucknow, U.P. wrote a letter to the Government of U.P. only on 03.08.2024 i.e. almost two months thereafter. There is absolutely no explanation for this delay of two months. It only goes to show the lackadaisical and casual approach adopted by the appellants herein. Further, after reference, legal opinion was sought from the office of the Chief Standing Counsel for the State only on 09.10.2024 i.e. with a delay of further two months about which also there is no explanation. Legal opinion was provided on 23.10.2024. After receipt of legal opinion from the Chief Standing Counsel on 23.10.2024, the Government sought opinion from the Law Department again. On 04.04.2025 i.e. almost more than five months later, a letter was again sent to the Chief Standing Counsel seeking legal opinion for filing special appeal. It is only thereafter that the Chief Standing Counsel was contacted. Legal opinion was given on 07.04.2025 once again and thereafter on 16.04.2025, permission was granted by the Law Department to file the special appeal. There is absolutely no explanation for the intervening period of more than five months as to what transpired during this period. In paragraph No.6 of the affidavit it is stated that the impugned judgment dated 31.05.2024 is based on another judgment rendered by a Division Bench in Special Appeal No.64 of 2024 against which Special Leave Petitions (Civil) had been preferred and diary number had been allotted as such the State Government was contemplating to take legal recourse against the judgment dated 31.05.2024. Learned Standing Counsel for the State has also invited our attention to the order dated 23.05.2025 passed by Hon'ble the Supreme Court in the case of ***The State of Uttar Pradesh & Ors. vs. Bhawana; S.L.P. (C) No. 14382/2025*** wherein the State had challenged the judgment in

the case of ***Dr. Bhawana vs. State of U.P. and Ors.; Special Appeal No.64 of 2024*** which is referred in paragraph No.6 of the affidavit in support of the application for condonation of delay.

6. This special appeal was ultimately filed on 08.05.2025. In the meantime, the officials/employees kept shuttling from one office to another. Movement of file from one desk to another is hardly an explanation much less an acceptable one for such inordinate delay. The explanation offered is hardly acceptable for the inordinate delay when 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.

7. 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, want of good faith, 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, want of good faith and casual approach on their part for the reasons already noticed herein-above.

8. 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.

9. 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.

10. In view of the above discussion, as, not only the delay is inordinate, but the same has not been satisfactorily explained, we see no reason to condone the delay. The application for condonation of delay is **rejected**. Consequently, the appeal also stands dismissed.

11. At this stage, Counsel for the respondent-employee informs that his probation period has already been completed, therefore, assuming that as per the appellants there was any impediment in granting study leave to him while he was on probation, that eventuality has ceased to exist anymore, and the respondent-employee has no objection, if, while complying the impugned judgment, the appellants take into consideration the fact that the respondent-employee has already completed the period of probation and is now eligible for grant of study leave and there are only eight months left in completing the Ph.D i.e. he is to complete the Ph.D by March, 2027. The appellants would be better advised to take this aspect into consideration.

February 9, 2026

-Piyush-

(Amitabh Kumar Rai,J.) (Rajan Roy,J.)