



2026:AHC-LKO:13828-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 308 of 2025

State of U.P. through Principal Secretary,
Department of Horticulture, Government of U.P.,
Lucknow and 2 others

.....Appellant(s)

Versus

Nirmala and another

.....Respondent(s)

Counsel for Appellant(s)	:	Mohit Jauhari (S.C.)
Counsel for Respondent(s)	:	Mohd. Ateeq Khan

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

1. This appeal is directed against order dated 22.03.2024 passed in Writ-A No. 2396 of 2024, whereby learned Single Judge has quashed the order dated 06.12.2023 passed by appellant no.2 and has held the respondents entitled to minimum of the pay scale applicable to regular employees working on the same post.
2. The appeal is barred by 450 days.
3. An application under Section 5 of the Limitation Act, 1963 seeking condonation of delay in filing the appeal has been filed, supported by affidavit of the District Horticulture Officer.
4. It is *inter alia* claimed in the affidavit that delay is neither intentional nor deliberate and as such the same may be condoned.
5. While giving out the explanation for the delay, indications have been made that after passing of the judgment on 22.03.2024, it was forwarded to the Director, Horticulture and Food Processing who, by letter dated 05.04.2024, directed to obtain legal opinion. Legal opinion was given on 16.04.2024. Whereafter, the State was moved for permission which permission was granted on 25.09.2024. The Chief Standing Counsel was contacted on 16.10.2024 for preparation of appeal and thereafter the special appeal was completed.

6. It is then claimed that the High Court was on vacation from 21.12.2024 to 01.01.2025 due to which the appeal could not be filed in time. Whereafter, assertions have been made that decision of the cases must be made on merits instead of dismissing the same on technical grounds.

7. The appeal factually has been filed on **15.07.2025**.

8. As would be noticed, from the purported explanation that the same is till 01.01.2025 only, the affidavit is totally silent as to why the appeal could not be filed after the Court reopened on 02.01.2025 till 15.07.2025.

9. From the affidavit itself, the laches on part of the Department, for the reasons best known to them, are apparent. Further, no attempt has been made either on part of the counsel or the deponent of the affidavit to make any effort to explain the delay of over six months.

10. Be that as it may, Hon'ble Supreme Court in **Postmaster General & Ors. Vs. Living Media India Ltd. & Anr.** : (2012) 3 SCC 563 wherein, while dealing with the appeals filed on behalf of the State, by its agencies and government bodies, it was *inter alia* observed as under:

“29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

11. The said judgment was followed in **State of Kerala Vs. Akshaya Jewellers** : Civil Appeal No. 4486 of 2022, decided on 03.08.2023 by Hon'ble Supreme Court.

12. Recently, Hon'ble Supreme Court in **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others** : Civil Appeal No. 11794 of 2025, decided on 12.09.2025, after scanning the entire law on the subject, observed as under:

"262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.

263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."

13. In view of the above fact-situation, no case for condonation of delay is made out. The application under Section 5 of the Limitation Act is dismissed. Consequently, the appeal is also **dismissed**.

(Jaspreet Singh, J) (Arun Bhansali, CJ)

February 20, 2026

Rakesh/AHA