

(2010) 12 UK CK 0095
In the Uttarakhand High Court
Case No : Special Appeal No. 158 of 2010

Santosh Kumar Joshi

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0095

Hon'ble Judges : Barin Ghosh, C.J.; Nirmal Yadav, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Barin Ghosh, C.J.

Delay Condonation Application No. 6664 of 2010.

1. Considering the averments made in the application for condonation of delay and being satisfied, we condone the delay in preferring the appeal.

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2. This appeal is against an order, by which the application for restoration of the writ petition, which was dismissed for non-prosecution on 1st September 2005, had been rejected. In the application for restoration, it was stated by the Appellant that he had no knowledge that the writ petition has been transferred from Allahabad High Court to this Court. The learned Judge found that while the writ petition was filed in the year 1993 and the restoration application was filed in 2010, the restoration application did not indicate, what the Appellant was doing during 17 years. It also appears to us that in as much as the principal grievance of the Appellant was met on 21st December 1993, he lost all interest in the matter. Facts of the case are that the Forest Department of the State of Uttar Pradesh launched Water Shed Project. The same was a temporary establishment of the State. In that, the Appellant was appointed on temporary basis as a surveyor on 4th January 1986. In February 1993, the project was

closed. Appellant, accordingly, lost his engagement. He, accordingly, filed the writ petition seeking his engagement as a surveyor in any existing vacancy anywhere in the State and for salary from the month of March 1993. After the writ petition was filed, on 21st December 1993 Appellant was engaged afresh. As a result, the main grievance of the Appellant came to be settled. The only grievance that remained was non-payment of salary since March 1993 until December 1993. In that background, there is hardly any scope of interference with the order under appeal. It appears to us that the Appellant practically lost interest in the writ petition.

3. However, having regard to what has been stated above, we reluctantly allow the appeal; set aside the order under appeal and restore the writ petition. With consent of the parties, we heard the writ petition and dispose of the same by directing the Appellant to make a representation seeking salary for the month of March 1993 until December 1993 before the Conservator of Forest, Garhwal Circle, Forest Department, Pauri Garhwal. In the event such representation is made within a period of one month from today, let the said representation be dealt with in accordance with law as quickly as possible, but not later than three months from the date of making of the said representation.

4. The appeal and the writ petition are thus disposed of.