

(2022) 07 UK CK 0144
In the Uttarakhand High Court
Case No : Special Appeal No. 353 Of 2019

State Of Uttarakhand And Another

APPELLANT

Vs

Brij Lal Kannoja

RESPONDENT

Date of Decision : 27-07-2022

Acts Referred:

Citation : (2022) 07 UK CK 0144

Hon'ble Judges : Vipin Sanghi, CJ;R.C. Khulbe, J

Bench : Division Bench

Advocate : S.S. Chauhan, Pradeep Chamyal

Final Decision : Disposed Of

Judgement

Vipin Sanghi, CJ

CLMA No. 5088 of 2019

1. By filing this application, the appellants seek condonation of delay of 331 days in filing the present Special Appeal. The reasons, for seeking condonation of said delay, have been set out by the appellants in paras 3 and 4 of the affidavit filed in support of the application. The appellants have deposed that, in terms of the impugned order, an Office Order was passed on 17.11.2018, which was, however, cancelled on 09.04.2019, as there was difficulty in complying with the impugned order dated 19.04.2018 of this Court.

2. Learned counsel for the appellants has explained that the difficulty stems from the fact that the learned Single Judge erroneously proceeded on the basis that the juniors of the writ petitioner stood promoted, and that their promotions were regularized, which is factually not correct. In this regard, the learned counsel has drawn our attention to the stand taken by the appellants in its counter-affidavit filed in response to the Writ Petition.

3. The application is opposed by the learned counsel for the respondent-writ petitioner, who states that the appellants, admittedly, had received a copy of the

order dated 19.04.2018 on 03.05.2018, but the appellants chose to sit over the matter for almost a year. Only after the respondent-writ petitioner had filed a Contempt Petition, being Contempt Petition No. 76 of 2019, the appellants have preferred the present Special Appeal.

4. We have heard the learned counsel, and we are inclined to allow the application, since, it appears to us, that the impugned order has not fully considered the matter on merits in the light of the pleadings of the parties. It cannot be said that the appellant has slept over the matter, inasmuch as the appellants initially took steps in terms of the impugned order by issuing the order dated 17.11.2018, which was, however, cancelled on 09.04.2019. We, therefore, allow this application and condone the delay in filing the present Special Appeal. Delay Condonation Application stands disposed of.

SPECIAL APPEAL No. 353 of 2019

5. We have heard learned counsel for the parties.

6. Considering the fact that the stand of the appellants has not been examined on merits, and there is no reflection in the impugned order that the learned Single Judge applied his mind to the aspects raised by the parties, we set-aside the impugned order dated 19.04.2018, and remand the matter back to the learned Single Judge for reconsideration and rehearing afresh, without, in any way, being influenced by the impugned order dated 19.04.2018. The parties shall appear before the learned Single Judge on 19.09.2022.

7. The present Special Appeal stands disposed of in the aforesaid terms.

8. In sequel thereto, pending application, if any, also stands disposed of.