

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 313 of 2025

Appellant :- State Of U.P. Thru. Prin. Secy Addl. Chief Secy. Irrigation
Deptt. Lko. And 4 Others

Respondent :- Mukhtar Ahmad

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Piyush Mishra

And

Case :- SPECIAL APPEAL DEFECTIVE No. - 314 of 2025

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Respondent :- Mukhtar Ahmad

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Piyush Mishra

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Shree Prakash Singh,J.

Order on Delay Condonation Application

1. Since the issue involved in both the aforesaid intra court appeals are interconnected, as such, the same are heard together and decided by a common order.
2. The intra-court appeals filed under Chapter VIII Rule 5 of the High Court Rules are delayed by 110 days.
3. The appeals are accompanied with applications for condonation of delay duly supported with affidavits.
4. Reasons in detail have been spelt out for condonation of delay.
5. Learned counsel for the respondent does not have any objection if the delay in filing the special appeals is condoned.
6. Cause shown is sufficient.

7. Applications for condonation of delay are allowed and the delay is condoned.

Order on Appeal

8. Heard learned counsel for the appellants-State and learned counsel for the respondent.

9. The common order impugned in both the intra court appeals was passed by the Writ Court on 3.3.2025 in Writ-A Nos. 6002 of 2024 and 5841 of 2023. The writ court allowed the writ petitions in favour of the respondent by giving all the service benefits and other post-retiral dues treating the date of birth of the mother of the respondent as 17.7.1962 and by affirming her superannuation on 16.7.2022 as per rules. The writ court while allowing the writ petitions has taken into consideration the Division Bench judgement of this Court passed on 26.8.2015 in Special Appeal No. 175 of 2014, whereby, the claim of the mother of the respondent was already allowed on the issue of date of birth.

10. It is an unfortunate case where the government servant has struggled for being continued in service despite a judgment in her favour passed by a Co-ordinate Bench of this Court on 26.8.2015 which has attained finality.

11. Once the judgment dated 26.8.2015 remained unassailed on merit, the State ought to have allowed the mother of the respondent (late Smt. Shakeela Bano) to continue in service until attaining her age of superannuation on 31.7.2022. With the benefit of judgment dated 26.8.2015 remaining available to late Smt. Shakeela

Bano who died on 23.1.2022, the claim of her dependent i.e. respondent herein was also liable to be considered and has rightly been allowed by the writ court. The sufferings of the deceased employee who could not receive salary as well as pension ever since 31.10.2011 has truly subjected the family to an immeasurable loss.

12. The State government failed to pay pension to the deceased employee on the stand which they adopted to dispute the date of birth and after the judgement was rendered by this Court on 26.8.2015, the same having attained finality was not complied. There was absolutely no reason for the State not to extend the benefit of the division Bench judgment dated 26.8.2015 once the same was rendered with due participation of the State for retaining the deceased employee in service. In this manner, the deceased employee has heavily suffered on account of non-payment of salary and even pension, if the stand of the State may be assumed to be correct. It is in the backdrop of the division bench judgment dated 26.8.2015 that the writ court has allowed the writ petitions filed by the respondent herein.

13. On a close scrutiny of the impugned judgment passed by the writ court, we do not gather any illegality which the impugned judgment may suffer from. There is a serious default on the part of the State not to obey the division Bench judgment and even failure on their part to make the payment of pensionary benefits to the deceased employee has caused a heavy financial loss to the deceased employee rather she was brought to the stage of starvation

which deserves to be compensated in terms of cost.

14. The intra-court appeals filed by the State on the grounds urged before us do not require any interference and the appeals bereft of any merit are hereby **rejected**.

15. Taking note of the fact that the family of the deceased employee was subjected to a heavy and grave financial loss despite the judgment dated 26.8.2015 having attained finality, we hereby proceed to impose a cost of rupees one lakh upon the State which shall be released in favour of the respondent herein along-with all other benefits in terms of the directions issued by the writ court.

16. The compliance of the judgment passed by the writ court is directed to be made without any further delay and preferably within three months.

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(Shree Prakash Singh,J.) (Attai Rahman Masoodi,J.)

Order Date :- 29.7.2025

kanhaiya