

(2011) 08 AHC CK 0202

Allahabad High Court

Case No: Special Appeal Defective No. 740 of 2006

Chairman U.P. Jal Nigam

APPELLANT

Vs

Govind Jha and Another

RESPONDENT

Date of Decision: Aug. 2, 2011

Hon'ble Judges: Bharati Sapru, J; Ashok Bhushan, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. Heard Sri Amit Dube, learned Counsel for the Appellant and Sri Akhtar Ali, learned Counsel for the Respondent writ Petitioner.

2. This is an application praying for condonation of 125 days' delay in filing the appeal. The grounds taken in the affidavit are that copy of the judgment was applied and after obtaining the copy of the judgment, the Law Officer of the U.P. Jal Nigam was informed seeking instructions. The matter was referred to Secretary Administration U.P. Jal Nigam and a letter dated 22.3.2006 was received that matter is being placed before the Law Department. The Counsel for the Appellant was asked to obtain legal opinion and thereafter the matter was again placed. Time was taken in correspondence and ultimately the counsel was directed to file an appeal by letter dated 17.4.2006. Thereafter the appeal was prepared and filed.

3. Sufficient cause has been shown for condonation of delay in filing the appeal. The delay in filing the appeal is condoned.

4. Chairman, U.P. Jal Nigam has come up in this appeal against the judgment and order of the learned Single Judge dated 27/2/2006, by which the writ petition filed by the Petitioner-Respondent has been allowed.

5. The Respondent-Petitioner was working as Class III employee in the U.P. Jal Nigam. The question which fell for determination in the writ petition was with regard to the age of retirement of the employees of the U.P. Jal Nigam as to whether

they would retire at the age of 58 years or 60 years. The Respondent-Petitioner attained the age of 58 years on 30/11/2004. The writ petition was filed by the Respondent on 10/2/2006 i.e. after his retirement which has been allowed by the impugned judgment.

6. Learned Counsel for the parties agree that against the same judgment by which several writ petitions were decided, special appeal No. 743 (D) of 2006 was filed which has been allowed by this Court on 11.1.2011 and judgment of Hon"ble Single Judge was set aside.

7. Learned Counsel for the parties agree that the writ petition was filed by the contesting Respondent after retirement and in view of the judgment of the apex Court in Appeal (Civil) No. 4790 of 2006, Chairman, U.P. Jal Nigam and Anr. v. Jaswant Singh and Anr., the benefit has been confined only to those persons who filed the writ petition before the retirement and were granted interim order by the Court. Following the ratio of the aforesaid judgment of the apex Court as well as Division Bench in Special Appeal No. 743 of 2006, this appeal is allowed, judgment and order of Hon"ble Single Judge is set aside and the writ petition is dismissed.