

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 759/2018

State Of Raj And Ors

----Appellant

Versus

Ram Bilas Bairwa

----Respondent

For Appellant(s) : Dr. Vibhuti Bhushan Sharma, AAG.

For Respondent(s) : Mr. Manoj Bhardwaj.

**HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA**

Order

15/05/2019

There is delay of 133 days in filing of the appeal.

Application No. 606/2018 under Section 5 of the Limitation Act has been filed seeking condonation of delay in filing of the appeal. The appellant-State in the aforesaid application has contended that after receiving copy of the impugned judgment, officer-in-charge took opinion from the concerned advocate and and the matter was forwarded with his comments to Legal Section of the Department from where the file was processed through proper channel and ultimately it reached to the Head of the Department. Thereafter, the matter was sent to Pre-Litigation State Level Standing Committee and after decision of the Standing Committee to challenge the judgment passed by the learned Single Judge by way of appeal, the Law Department was requested to appoint law officer in the case. Some time has been consumed in that process.

Learned Additional Advocate General submitted that it was a case of joint enquiry and the writ petition filed by co-delinquent against order of penalty of compulsory retirement with proportionate pension was allowed by the learned Single Judge of this Court and the same was substituted by stoppage of three annual grade increments with cumulative effect. The Division Bench in the appeal filed by the State in the case of Om Prakash, took note of the submission of the respondent therein that on remand of the matter by the Disciplinary Authority, de-novo ex-parte enquiry was conducted pursuant to which order of penalty has been passed. The Division Bench thereupon set aside the order of penalty and directed de-novo enquiry, which judgment has been challenged by the State before the Supreme Court by filing Special Leave Petition (Civil) Diary No. 46690/2018. Notice to the co-delinquent, Om Prakash has been issued in the aforesaid Special Leave Petition.

Even though the application under Section 5 of the Limitation Act is quite vague and unspecific, being without any details but having regard to the facts aforesaid, we are inclined to condone the delay in filing of the appeal and the same is accordingly condoned.

Application No. 606/2018 is allowed.

Matter to come up for admission after six weeks.

(NARENDRA SINGH DHADDHA),J

(MOHAMMAD RAFIQ),J