05th October,2026
Item no. 10
Court No.11
sujata

MAT 1191 of 2026
With
CAN 1 of 2026
CAN 2 of 2026

Union of India & Ors
vs.
Bijan Hazra & Ors.

Mr. Brijendra Pratap Singh,
Ms. Banani Bhattacharya,
...for the Petitioners.

Mr. Debasish Kundu,
Mr. Sudeepto Kumar Basu,
Mr. Bidan Modak,
...for the Respondents no.1/writ petitioner

1. CAN 1 of 2026 is an application under Section 5 of Limitation Act praying for condonation of delay of 118 days in preferring the instant appeal.
2. It reveals from the averments made in the said application that there was a delay for obtaining necessary permission/approval from the Ministry of Law & Justice for filing of an appeal on behalf of the department.
3. That subsequently Ministry of Law & Justice issued an engagement letter on 11th March, 2026 and after that necessary steps were taken for filing of the present application.
4. Therefore, the delay caused is beyond the control of the appellant and there is no willful/deliberate negligence on the part of the appellant in preferring the instant appeal.
5. The learned advocate appearing for the respondent raised objection and submits that there is no

plausible reason for holding that the delay caused by the appellant is not willful.

6. We have heard the learned advocates for the parties and perused the materials on record. We are of the opinion that the appellant has assigned sufficient cause for failing to initiate proceedings within the period of limitation and the explanations offered by the appellant are reasonable and same are accepted.
7. The application is allowed. The appeal be registered accordingly.
8. With the consent of the parties both the appeal and the application for stay being CAN 2 of 2026 are taken up for hearing.
9. According to the learned advocate for the Union of India/Appellants, the Hon'ble Apex Court in the case of **Union of India & Ors. Vs. Atul Kumar Verma & Ors**. in Civil Appeal No(s) 4423-4426/2026 SLP (C) Nos. 13390-13393/2026 and Diary No. 68753/2025 has already settled the controversy pending in the present case.
10. As per decision of the Hon'ble Apex Court, a candidate who participated in the process of recruitment of constables (GD) in the Force as his height if found/measured as 169.5 centimetres and above, then 0.5 would have to be ignored and 169.5 and more would have to be rounded off to the next higher centimeter. Such candidate cannot be disqualified on ground of less height, if they are 169.5 centimetres or above.

11. The Hon'ble Apex Court passed such order in an appeal in identical circumstances as arising for consideration in the present case.

12. The learned advocate for the appellants fairly submits that since the writ petitioner was not found to be below 169.5 cm. during his height measurement, nothing survives to be decided in the present appeal.

13. Since, the appeal has become infructuous in view of the above noted decision of the Hon'ble Apex Court, the same is, accordingly, disposed of.

14. Pending application, if any, also stands disposed of.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**