

**HIGH COURT OF TRIPURA
AGARTALA**

I.A. No.01/2026 in/and W.A. No.26/2026

1. The Union of India, Represented by the Secretary, Ministry of Home Affairs, Government of India, North Block, Central Secretariat, New Delhi 110001.
2. The Director General, BSF, CGO Complex, Lodhi Road, New Delhi-110003.
3. The Financial Advisor, Border Security Force, CGO Complex, Lodhi Road, New Delhi-110003.
4. The Inspector General, Border Security Force, Frontier Headquarter, Salbagan, Agartala, Tripura, 799001.
5. The Commandant (Coordinator), BSF, CGO Complex, Lodhi Road, New Delhi 110003.

..... Appellant/Applicant(s).

V E R S U S

Sri Oshihar Prasad, Son of Sri Akshay Lal Mahto, Assistant Commandant (Adm.), C/O. Inspector General, Border Security Force, Frontier Headquarter Tripura, P.O. Salbagan, P.S. Capital Complex, Salbagan, Agartala, Tripura 799012.

.....Respondent(s).

For Appellant/Applicant(s) : Mr. Bidyut Majumder, Deputy S.G.I.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

CAV reserved on : **23.03.2026.**

Judgment delivered on : **07.04.2026.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

Heard Mr. Bidyut Majumder, Deputy Solicitor General appearing for the appellant/applicants.

2. This application has been filed under Section 5 of the Limitation Act, 1963 by the applicants herein for condoning the delay of 360 days in

preferring the accompanying Writ Appeal challenging the judgment dt. 14.02.2025 in WP(C) No.713 of 2023 of the learned Single Judge.

3. The main reason given in the application by the applicants for not filing the appeal within the 30 (thirty) day period for filing the same is that there was involvement of various departments of the Government of India for taking a decision in that regard and a tabular column is given enumerating the events, which led to the delay, which is as under:

S/No.	Details	Date
1.	The order dated 14.02.2025 passed by Hon'ble High Court of Tripura received at FTR HQ BSF TRA.	20.02.2025
2.	FTR HQ BSF TRA approached Govt. Counsel for legal opinion on Court Order dated 14.02.2025.	20.02.2025
3.	The advice of Govt. counsel dated 21.02.2025 on Court Order dated 14.02.2025 received to TRA FTR HQ.	24.02.2025
4.	On receipt of Opinion of Govt. Counsel case was processed with the Self-contained Note for approval of Competent Authority.	27.02.2025
5.	The self-contained proposal duly approved by IG BSF TRA FTR HQ forwarded to MoL&J Kolkata through Spl. Rep.	10.03.2025
6.	The opinion of MoL&J dated 26.03.2025 on Court Order dtd. 14.02.2025 received from Law Branch, FTR TRA with direction to forward self-contained note for obtaining the decisions of FHQ, on implementation of Court Order dated 14.02.2025.	05.04.2025
7.	After obtaining opinion of Law Officer Gde-I of TRA FTR, the self-contained proposal duly recommended by IG, BSF, TRA FTR, forwarded to HQ SDG (EC) through Spl. Rep.	21.04.2025
8.	HQ SDG (EC) forwarded Self Contained Note duly recommended by ADG(EC) BSF to FHQ Adm Dte through Spl. Rep.	02.05.2025
9.	FHQ BSF Law Dte vide their Sig No.R/3563 dated 25.07.2025 intimated that obtaining view/comments from the MHA on implementation of Court Order dated 14.02.2025 may take approx. 03 months time and directed to liaise with concerned Govt. Counsel for filing of CM application, for seeking 03 months time from Hon'ble High Court.	30.07.2025
10.	The Govt. Counsel was requested to file CM application before the Hon'ble High Court of Tripura	31.07.2025

	seeking 03 months time for taking a decision on implementation of Court Order dtd. 14.02.2025 as various Ministries/establishments of Central Govt. are involved in the matter.	
11.	The Govt. Counsel, vide letter dtd. 01.08.2025 intimated that the period of 03 months granted by the Hon'ble High Court of Tripura had already expired on 15.05.2025 and the Department had not yet taken decision regarding the implementation of the judgment dtd. 14.02.2025. It was further intimated that, in present circumstances, there was no scope to file a petition seeking extension of time.	01.08.2025
12.	FHQ BSF (Law Dte-Lit Branch) was intimated about the advice of the Govt. Counsel.	04.08.2025
13.	FHQ BSF Adm Dte (Adm-II) intimated that subject matter had been referred to MHA through the e-Office file system on 01.08.2025 for seeking a decision regarding the implementation of the Court Order or file an appeal before the Division Bench and the same is under examination in MHA/MoF.	31.10.2025
14.	FHQ BSF intimated that MHA, vide ID dated 08.12.2025, informed that the subject matter was under examination in the Ministry of Finance (MoF).	12.12.2025
15.	The MHA, vide OM dated 12.01.2026, directed initiation of necessary action for filing an appeal (LPA/WA) in the subject matter, which was received at FTR HQ BSF TRA on 14.01.2026.	14.01.2026
16.	In response to FTR HQ BSF TRA Sig No.A/4436 dtd. 15.01.2026, FHQ BSF Law Dte (Lit branch) vide Sig No.R/3575 dated 20.01.2026 intimated that the petitioner is governed by the General Orders relating to Additional HRA applicable to Central Govt. Employees, under which leaving the family at last place of posting is a mandatory condition for availing the benefits of additional HRA, and accordingly directed filing of the appeal.	20.01.2026
17.	FTR HQ BSF TRA approached Govt. Counsel for preparation of the Draft appeal (LPA/WA) for filing before the Hon'ble High Court of Tripura.	20.01.2026
18.	Draft appeal has been forwarded by Govt. Counsel vide their letter dated 29.01.2026.	30.01.2026
19.	After due verification of the facts/documents mentioned in draft appeal prepared by Govt. Counsel, the same was forwarded to Law Officer on 03.02.2026, for vetting. However, the Law Officer was away on temp. duty. The vetted draft was received vide letter dated 18.02.2026.	23.02.2026
20.	Govt. Counsel has been approached to re-draft the Writ Appeal as per suggestion given by Law Officer	28.02.2026

	Gde-I and Govt. Counsel suggested that provide final copy of WA for filing before the Hon'ble Court.	
21.	FTR HQ BSF TRA has forwarded the draft WA along with condonation delay application and application for stay the execution of Court Order dated 14.02.2025 to FHQ BSF Adm Dte through Spl. Rep. for approval of DG BSF.	03.03.2026
22.	FTR HQ BSF TRA applied for Certified Copy before Hon'ble High Court of Tripura through Govt. Counsel.	06.03.2026
23.	FHQ BSF Adm Dte intimated that there is no need of approval of DG BSF for filing appeal in the case as matter has already been examined at FHQ BSF and MHA has already instructed to file appeal in the matter for the grounds reflected vide their OM dated 12.01.2026.	07.03.2026

4. As can be seen from the above, there were multiple stages of consultation between the Government Counsel and the Departments concerned, and at every stage of the consultative process, decisions were not taken promptly with regard to the filing of the Writ Appeal, though the applicants were undoubtedly aware that the limitation for filing the Writ Appeal was only 30 days.

5. The impugned judgment of the learned Single Judge is of mere 9(nine) pages and we fail to understand why such elaborate consultations spread over more than a year became necessary to take the simple decision whether or not to challenge the Single Judge's judgment in the Writ petition .

6. We may also point out that along with the accompanying appeal, certified copy of the judgment of the learned Single Judge has been filed, which indicates that though the judgment of the learned Single Judge had been pronounced on 14.02.2025, application for certified copy of the same was made on 06.03.2026 i.e., more than a year after the judgment of the learned Single Judge was delivered, and on that basis this Writ Appeal is filed. Why

no application for getting a certified copy was not filed for such a long period of time is also not explained.

7. In *Postmaster General and others v. Living Media India Limited and another*¹, the Supreme Court held:

“25. We have already extracted the reasons as mentioned in the “better affidavit” sworn by Mr Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in Office of the Chief Postmaster v. Living Media India Ltd. as 11-9-2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 8-1-2010 and the same was received by the Department on the very same day. There is no explanation for not applying for the certified copy of the impugned judgment on 11-9-2009 or at least within a reasonable time. The fact remains that the certified copy was applied for only on 8-1-2010 i.e. after a period of nearly four months.

26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

¹ (2012) 3 SCC 563

27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.”

(Emphasis supplied)

8. The said judgment has been followed by the Supreme Court in several cases such as ***Commissioner of Customs, Chennai v. Volex Interconnect (India) Private Limited***², ***Principal Commissioner Central Excise Delhi-I v. Design Dialogues India Pvt. Ltd.***³, ***Union of India v. Central Tibetan Schools Administration & Others***⁴, ***Union of India &***

² (2022) 3 SCC 159

³ (2022) 2 SCC 327

⁴ (2021) 11 SCC 557

*Others v. Vishnu Aroma Pouching Private Limited and another*⁵, and *State of Uttar Pradesh & Others v. Sabha Narain & Others*⁶.

9. In *Union of India & Another v. Jahangir Byramji Jeejeebhoy (D) through his legal heir*⁷, the Supreme Court held that it is not permissible to look into the merits of the matter as long as it is not convinced that sufficient cause has been made out for condonation of long and inordinate delay; that it hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning gross delay of more than 12 years; length of delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not; from the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation; once it is held that a party has lost his right to have the matter considered on merits because of his long inaction, it cannot be presumed to be non-deliberate delay and in such circumstances, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. It was reiterated while considering plea for condonation of delay, Court must not start with the merits of the main case and the Court owes a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation. It declared that delay should not be excused as a matter of generosity.

10. This was also reiterated in *State of Madhya Pradesh v. Ramkumar Choudhary*⁸.

⁵ (2022) 9 SCC 263

⁶ (2022) 9 SCC 266

⁷ 2024 INSC 262 : 2024 SCC OnLine SC 489

⁸ Special Leave Petition (C) Diary No.48636 of 2024 dt.29.11.2024

11. We are satisfied that in the facts and circumstances of the case, that the applicants had been clearly negligent in taking steps to file the Writ Appeal within the time permitted by law, and no sufficient cause has been shown by them for condoning the inordinate delay of 360 days in filing the Writ Appeal.

12. Accordingly, the application for condonation of delay [I.A. No.01 of 2026] is dismissed. Consequently, the Writ Appeal is also dismissed.

13. All pending applications shall stand closed.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)



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