

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

...

SWP No. 553/2018

Reserved on: 06.06.2026

Pronounced on: 03.07.2026

Uploaded on: 03.07.2026

Whether the operative part or full
Judgment is pronounced: **Full**

Mohammad Farooq Raina S/o
Late Gh. Ahmad Raina R/o
Bugam Kulgam Kashmir aged 52
years.

.....Appellant(s)

Through: Mr. Shuja Ul Haq, Advocate

Versus

1. Union of India through
Secretary to Govt. of India,
Ministry of Tele-
communications and
Information Technology,
Department of Posts, Dak
Bhawan, Sansad Marg New
Delhi 110001.
2. Chief Postmaster General,
J&K Circle Srinagar Kashmir.
3. Senior Superintendent of Post
Offices, Srinagar Division
Srinagar Kashmir.

.....Respondent(s)

Through: Mr. Nazir Ahmad Bhat, CGSC

**CORAM: HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE**

JUDGMENT

(Rajnesh Oswal-J)

1. The petitioner has filed the present writ petition for quashing the order dated 27.09.2016 passed by the Central Administrative Tribunal Chandigarh (Camp Court, Jammu) (hereinafter referred to as "the Tribunal") in Original Application No. 062/00011/2014 titled, "*Mohd Farooq Raina vs. Union of India*, whereby the aforementioned

O.A preferred by the petitioner, thereby challenging the communication dated 06.11.2013 and seeking promotion to the post of Lower Selection Grade (LSG) under Fast Track Promotion (FTP) Scheme against the vacancy of the year, 2004, came to be dismissed.

2. The petitioner has assailed the aforesaid order, *inter alia*, on the grounds that the learned Tribunal overlooked and ignored the petitioner's positive case, as well as the unequivocal admissions made by the respondents in their communications dated 25.02.2011, 23.03.2012, and 13.06.2013. In these communications, it was explicitly stated that the vacancies for the year 2004 were wrongly calculated and that the petitioner could have been absorbed into one of the available slots. It is further urged that the learned Tribunal failed to consider that the petitioner had continuously represented his grievance before the respondents. Despite a series of representations, official apathy and nepotism delayed a concrete reply until 2013. It was only then that the respondents, for the first time, admitted to the erroneous calculation of the 2004 vacancies, an error, that directly deprived the petitioner's right of due consideration for promotion under the Fast Track Promotion Scheme.

3. In response, the respondents submit that although the petitioner qualified in the 2003 and 2004 Fast Track Promotion Competitive Examinations, but he failed to secure a place in the merit list. They oppose the claim of the petitioner primarily on the ground of delay, by stating that the petitioner remained silent for nearly six years before filing his first representation on 24.04.2010. This representation was rejected by the competent authority because the 2004 vacancies had

already been finalized, the posts filled, and the underlying Promotion Scheme withdrawn in 2005. The respondents further assert that the 2011 and 2013 communications cited by the petitioner were issued long after the completion of process of promotion, raising a strong possibility of connivance with local Divisional Heads. Succinctly, the respondents' stand is that the claim is hopelessly time-barred. Moreover, they have submitted that the internal correspondence between respondent No. 3 and respondent No. 2 was merely tentative and subject to final verification by respondent No. 2, who alone was competent to notify vacancies. The respondents maintain that the original 2004 vacancies calculation was never invalidated by the competent authority

4. The petitioner has also filed a rejoinder affidavit, wherein it is stated that, in response to an application filed by him under the Right to Information Act, the respondents, vide communication dated 24.09.2012, informed the petitioner that no time limit has been prescribed for the disposal of his promotion case.
5. Heard learned counsel for the parties and perused the record including the written arguments submitted by the learned counsel for the petitioner.
6. Before proceeding to examine the core controversy involved in the present petition, we deem it appropriate to note that the petitioner has superannuated from service during the pendency of these proceedings, a fact fairly conceded by the learned counsel appearing on his behalf.
7. The facts necessary for the disposal of the present petition are that one post was notified for promotion to the Lower Selection Grade (LSG)

under the Fast Track Promotion (FTP) Scheme for the vacancy year 2004. The petitioner participated in the FTP Competitive Examination conducted for the said year, and though he qualified in the examination, he failed to secure a position on the merit list. Before the learned Tribunal, the petitioner contended that he had been continuously submitting representations from the year 2005 onward regarding the alleged miscalculation of vacancies under the FTP Scheme. However, despite these repeated representations, no response was furnished by the respondents. It was only vide a communication dated 13.12.2010 that the petitioner was informed that, despite qualifying the examination, he could not be promoted due to the non-availability of a vacancy. In support of his claim before the Tribunal, the petitioner relied upon communications dated 25.02.2011, 23.03.2012, and 13.06.2013, addressed by respondent No. 3 to respondent No. 2. According to the petitioner, these communications substantiated his long-standing grievance and demonstrated that the vacancies had indeed been incorrectly calculated. He further contended that, notwithstanding the admission in the said correspondence, the respondents vide order dated 06.11.2013 erroneously rejected his claim for promotion against the 2004 vacancy.

8. On the contrary, the respondents, in their reply, have categorically asserted that the petitioner's claim for promotion is hopelessly belated. It is their specific stand that the communications relied upon by the petitioner, having been issued from the year 2011 onward, cannot form a valid basis for entertaining a claim relating to the alleged vacancy of the year 2004. The respondents further contend that the circumstances

surrounding the issuance of these communications raise a strong suspicion of connivance between the petitioner and the official concerned. Consequently, it is submitted that these documents cannot be relied upon to sustain or revive an otherwise stale and time-barred claim.

9. The relevant portion of the order dated 06.11.2013, whereby the claim of the petitioner for promotion against the vacancy of Lower Selection Grade (LSG) for the year 2004 was rejected, is extracted below:

“Nine years have passed since exam was held and results declared. At this stage, there is no justification to reopen calculation of vacancies for the year 2004 specifically in view of the fact of available vacancies continued to be filled up.”

10. While the petitioner claims to have repeatedly submitted representations from 2005 to 2010, it is undisputed that he did not approach the learned Tribunal or any other competent judicial forum for relief during this period. Instead, he chose to pursue his remedy departmentally. The petitioner relies on certain internal communications issued from 2011 onward by respondent No. 3 to respondent No. 2, contending they amount to an admission that the 2004 vacancies were miscalculated. Conversely, the respondents contend that only respondent No. 2 had the authority to determine and notify the vacancies. Furthermore, they submit that the Fast Track Promotion Scheme was formally withdrawn in 2005 once all available posts were filled. Consequently, they challenge the authenticity of the later communications, alleging potential collusion between the petitioner and departmental officials. Be that as it may, a perusal of the correspondence relied upon by the petitioner reveals that it fails to

unequivocally establish the existence of an unfilled vacancy at the time the examination was conducted. As previously noted, only respondent No. 2 had the authority to determine and notify the vacancies. Furthermore, no documentary evidence from a competent authority exists to support the claim of an incorrect vacancy calculation.

11. It is well-settled that filing repeated or belated representations cannot resurrect a stale cause of action. Furthermore, any subsequent decision or disposal of such representations does not yield a fresh cause of action to approach a judicial forum.

12. In “**State of Uttaranchal vs. Shiv Charan Singh Bhandari**”, (2013) 12 SCC 179, the Hon’ble Apex Court has held as under:

"19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time.

23. In “**State of T.N vs. Seshachalam**”, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:

"16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

28. **Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion.** We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. **But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court."**

(emphasis added)

13. Further, the Hon'ble Supreme Court in the case of **"C. Jacob vs. Director of Geology and Mining"**, (2008) 10 SCC 115 has held as under: -

"10. Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim."

(emphasis added)

14. In the case of **"Union of India vs. M.K. Sarkar"**, (2010) 2 SCC 59, it has been held as under :

"15. When a belated representation in regard to a "stale" or "dead" issue/ dispute is considered and decided, in compliance with a direction by the court/ tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with -reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches."

(emphasis added)

15. In the case of **"Union of India and others vs. Chaman Rana"**, (2018) 5 SCC 798, it has been held as under: -

"10. Mere repeated filing of representations could not be sufficient explanation for delay in approaching the Court for grant of relief, was considered in Gandhinagar Motor Transport Society v. Kasbekar [Gandhinagar Motor Transport Society v. Kasbekar, 1953 SCC OnLine Bom 64 : AIR 1954 Bom 202] , by Chagla, C.J. observing as follows: (SCC OnLine Bom : AIR p. 203, para 2)

"2. ... Now, we have had occasion to point out that the only delay which this Court will excuse in presenting a

petition is the delay which is caused by the petitioner pursuing a legal remedy which is given to him. In this particular case the petitioner did not pursue a legal remedy. The remedy he pursued was extra-legal or extra-judicial. Once the final decision of the Government is given, a representation is merely an appeal for mercy or indulgence, but it is not pursuing a remedy which the law gave to the petitioner. ...".

(emphasis added)

16. In the instant case, the petitioner's examination took place in 2004. Even assuming *arguendo* that he first represented against the vacancy calculation in 2005, he was bound to approach a competent forum within the reasonable time thereafter. The petitioner, however, chose to sleep over his rights, preferring to submit repeated representations until finally filing the Original Application in 2013 under the garb of challenging the rejection order dated 06.11.2013. Such a strategy is legally unsustainable. The mere filing of repeated representations and the eventual disposal thereof cannot resurrect a dead claim or create a fresh cause of action.
17. Consequently, we have no hesitation in holding that the petitioner's claim was hopelessly belated and was rightly rejected by the respondents as 'dead and stale'. The learned Tribunal committed no error in appreciating this delay and dismissing the claim of the petitioner on the grounds of 'delay and laches'.
18. For the reasons stated hereinabove, we find no merit in the present writ petition. The same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Rajnish Oswal)
Judge

Jammu:
03.07.2026
Karam Chand

Whether approved for reporting? Yes