

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMP.M No. 1090 of 2026 &

LPA No. 428 of 2026

Decided on : 22.07.2026

The Principal Secretary (Public Works) and others

...Applicants/Appellants

Versus

Shri Ramesh Chand

...Respondent

Coram

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

The Hon'ble Mr. Justice Bipin C. Negi, Judge.

Whether approved for reporting?¹

For the applicants/ appellants	:	Mr. Gobind Korla, Additional Advocate General.
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G.S. Sandhawalia, Chief Justice (Oral)

The present application has been filed by the State for condonation of delay in filing the Letters Patent Appeal, seeking consideration of the judgment passed by the learned Single Judge in ***CWP No. 8500 of 2013***, titled ***The Principal Secretary (Public Works) to the Government of H.P. Shimla-2 and others Vs. Ramesh Chand***, dated 24.02.2025, whereby the learned Single Judge had upheld the Award dated 01.09.2012 (Annexure P-1), passed by the Industrial Tribunal-cum-Labour

¹ Whether reporters of the local papers may be allowed to see the judgment?

Court, in which termination of the services of the claimant had been set aside on the ground that no regular departmental inquiry was conducted and he was terminated on the basis of report of the preliminary inquiry.

2. Learned Single Judge was of the opinion that no order of retrenchment under Section 25-F of the Industrial Disputes Act could not have been passed by way of punishment in the light of statutory language of Section 2(oo) of the Industrial Disputes Act.

3. The present appeal is hopelessly time barred, as period of 1 year and 123 days had expired, as per the Office report. Application has been filed for condonation of delay of 404 days, also does not give any sufficient cause as to why the delay should be condoned.

4. It is admitted fact that though the judgment had been passed on 24.02.2025, certified copy of the judgment had been applied after more than one year and it was only on 04.03.2026 that the pro-active steps were taken and then the copy was supplied on 28.04.2026 to the Office of Executive Engineer, HPPWD Division, Chopal. Thereafter, he had immediately sent the copy to the Engineer-in-Chief, who further referred the matter to the Government for obtaining the legal opinion, vide letter dated 06.05.2026. The opinion had then been received by the

Office of the Executive Engineer on 22.06.2026 and the process had been carried out for filing the present Letters Patent Appeal, which was filed on 25.06.2026. It is thus apparent that for a period of one year, the State was not interested in challenging the judgment in question and had not even bothered to apply for the certified copy of the judgment, which shows inaction on the part of the State.

5. It is a settled principle that certain vested rights accrue to the litigant after he has got an order in his favour. In this regard, reliance can be placed upon the law laid down by the Apex Court in ***Maniben Devraj Shah versus Municipal Corporation of Brihan Mumbai, (2012) 5 Supreme Court Cases 157.***

6. It is also a settled principle that the Department cannot take advantage of its own impersonal machinery and they have to perform the duty with diligence and commitment and condonation of delay is an exception, which is the law laid down by the Apex Court in ***Chief Postmaster General and others Vs. Living Media India Limited and another, (2012) 3 Supreme Court Cases 563***, which was followed up in ***Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others, (2013) 12 Supreme Court Cases 649.***

7. The Apex Court in ***Civil Appeal No.317 of 2025***,

titled as H. Guruswamy & Ors. Versus A. Krishnaiah since deceased by LRs, decided on 08.01.2025, has held that the Court owes a duty to first ascertain the bona fide of the explanation offered and only if sufficient cause is assigned, then the Court may bring into aid the merits of the matter for the purpose of condoning the delay. The Department, as such, thus cannot keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period. The relevant Paragraphs of the said judgment reads as under:-

“16. The length of the delay is definitely 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 respondents herein, it appears that they want to fix their own period of limitation for the purpose of 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 own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is

not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time."

8. In such circumstances, on account of total inaction on the part of the appellants-State for over a period of one year, from 24.02.2025 till 04.03.2026, we are of the considered opinion that in the absence of there being any sufficient cause for delay, the application for condonation of delay is liable to be dismissed.

9. It is also to be noticed that the Award was passed way back in the year 2012, whereby the claimant had been held entitled to reinstatement in service with immediate effect on the same terms and conditions along-with seniority, continuity and backwages. In the writ petition, there was only stay qua the 25% of backwages awarded to the workman and direction to reinstate the workman had not been stayed, which is clear from perusal of orders dated 20.12.2013 and 13.03.2014.

10. In such circumstances, we are of the considered opinion that since the workman had pursued the legal remedy against his termination, which was done way back in the year 1999, it would be totally unjust to call upon the respondents to contest the appeal, which is blatantly time barred.

11. Accordingly, the application for condonation of delay

is dismissed. Resultantly, the Letters Patent Appeal would meet the same fate. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

July 22, 2026
(*Shivank Thakur*)