

2026:HHC:37623

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

LPA No. 427 of 2026

Reserved on: 14.08.2026

Pronounced on: 03.09.2026

Uploaded on : 07.09.2026

Santosh Kumar Kaushal

...Appellant

Versus

State Bank of India & others

...Respondents

Coram:

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

The Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the Appellant:

Mr. Adarsh K. Vashista, Advocate.

G.S. Sandhawalia, Chief Justice

The present Letters Patent Appeal, filed by the unsuccessful writ petitioner, seeks consideration of the judgment passed by the learned Single Judge in ***CWP No. 208 of 2017***, titled as ***Santosh Kumar Kaushal Vs. State Bank of India & others***, dated 15.05.2026, whereby the learned Single Judge came to the conclusion that the issue of delay and laches would arise since promotions were being sought from the year

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

1990, as individuals who would be affected by such promotion were required to be impleaded, and the challenge to the non-grant of promotion to the petitioner from the post of Junior Management Grade Scale-I to the higher grades from the year 1990 onwards at various points of time, alongwith consequential benefits, was disallowed. Thus, the objection raised by the respondent-Bank as such was upheld by noting that the petitioner had been sleeping over the matter for long.

2. The learned Single judge had noticed that the petition was filed on 21/24.01.2017 and the grouse was against the non-grant of promotion from the post of Junior Management Grade Scale-I from the year 1990 till October 1998. Thereafter, promotion to the post of Middle Management Grade Scale-II was allowed in favour of the petitioner on 01.11.1998 and Middle Management Grade Scale-III was granted to him w.e.f. 03.09.2005 and subsequently, promotion to the post of Middle Management Grade Scale-IV was made on 12.09.2013. It was noticed that on the ground of

delayed promotion, the petitioner had represented his case before the National Commission for Scheduled Castes and Scheduled Tribes on 20.04.1999 (Annexure P-19) and the information had been sought with respect to ACRs w.e.f. 01.04.1992 to 31.03.2008 by the petitioner in August/September, 2010 (Annexure P-22).

3. Resultantly, reliance was placed by the learned Single Judge upon the judgments of the Apex Court in ***Union of India & others vs. A. Durairaj (Dead) by Lrs, (2010) 14 SCC 389, State of Uttar Pradesh & others vs. Rajmati Singh, (2023) 20 SCC 817*** and ***Union of India & others vs. N. Murugesan & others, (2022) 2 SCC 25***, to come to the conclusion that the writ court would not exercise its jurisdiction at belated stage. The outer limit was fixed as three to four years to challenge a seniority list and the aforesaid period was kept in mind, while falling back on the judgment passed by the Apex Court in ***Ajay Kumar Shukla & others vs. Arvind Rai & others, (2022) 12 SCC 579***, to come to the conclusion that it

was a case of clever drafting to create a cause of action when none existed.

4. Learned Counsel for the appellant has vehemently contended that the respondent-Bank was litigating as such against the information which had been sought for, and has taken us to the order passed on 01.03.2014 (Annexure P-26), in **CWP No. 6675 of 2013**, titled as **State Bank of India Vs. The Central Information Commission & another alongwith connected matters**, whereby the Division Bench as such had dismissed the writ petitions filed by the respondent-Bank, which had been filed against the order dated 24.10.2011, (Annexure P-25), wherein the Information Commissioner, Central Information Commission, had issued directions to provide information in respect of the various points. It is thus submitted that the SLP was dismissed against the aforesaid order of the Division Bench only on 26.10.2015 (Annexure P-29) and that there was no delay as such.

5. It is a matter of record that the date of retirement of the petitioner was 31.01.2017 and apparently, way back on 31.10.2001, a representation (Annexure P-30) had been acted upon by the Chief General Manager and submitted to the Director, the National Commission for Scheduled Castes and Scheduled Tribes (hereinafter referred to as “NCSCST”), wherein it had been noticed that the petitioner could not as such qualify for various aspects and was not in the zone of consideration, as his grouse was made on 12.03.2001 regarding deprivation of promotion. The relevant part of the said communication reads as under:-

“In this connection, we submit that Sh. Kaushal became due for promotion under Examination Channel w.e.f. 01.08.89 and under Normal Channel w.e.f. 01.11.1994. We have gone through the entire promotion records and find that performance of Sh. Kaushal has been fairly assessed and he could not qualify for promotion as he was placed below the cut-off marks in the promotion exercises held so far which is indicative from the data below:

<u>Exam Channel</u>		
<u>Year</u>	<u>Cut-off Ranking</u>	<u>Official's Ranking</u>
01.08.89	25	Could not qualify for ZOS

01.08.90	36	72
01.11.91	72	207 (Not in ZOS)
01.11.92	96	107 (Not in ZOS)
01.11.93	57	163
01.11.94	141	216 (Not in ZOS)
01.11.95	132	168 (Not in ZOS)
01.11.96	46	Could not qualify the test
01.11.97	13	Didn't appear in the test
01.11.98	18	Didn't appear in the test

Normal Channel

<u>Year</u>	<u>Cut-off Ranking</u>	<u>Official's Ranking</u>
01.11.94	97	Not in ZOS
01.11.95	85	175
01.11.96	45	101
01.11.97	13	14
01.11.98	18	Not in ZOS

We observe that Sh. Kaushal has not passed any part of CALIB examination as it has a weightage of 10 marks and same has a adverse bearing on his promotion. Further, Sh. Kaushal could not qualify the test held for the 1996 exercise and subsequently he did not appear in tests, held for 1997 & 1998 exercises. He had a very fair chance of availing concession available to SC/ST candidates during these exercise i.e. 1996, 1997 & 1998, whereas other SC/ST candidates of equivalent seniority or even below, got the benefit of said concession and stood promoted.

4. Officer remained posted in rural difficult, most difficult, tribal area of Himachal Pradesh.

As per extant transfer policy officers in Scale-I are generally posted within the module except in the circumstances of administrative exigencies or on their request for transfer elsewhere. Since, Sh. S.K. Kaushal belongs to Himachal Pradesh, he was posted in various branches of H.P. State wherein majority of the branches are rural and only few are at semi-urban centres. Sh. Kaushal has remained posted at convenient places i.e. Yol Camp, Shimla, Theog, Kangoo and Bhatoli except for 2 years at Sungra branch.

5. Officer has officiated as MMGS-II in various branches and still has not been given promotion.

Officiating in higher grades are given as per administrative exigencies and seniority and does not confer any right to get promotion.

6. Various Appreciation Letters has been given to officer and despite that he has not been given promotion.

The Bank has scheme of recognising the excellent work done by the officers/branches in various fields such as business development etc. These are the result of team works at branches. However, due cognizance is being taken while appraising the performance of the officer.

In view of the above, we have gone through entire service record/promotion exercises records relating to Sh. Kaushal and observe there has never been any bias or discrimination against him. The promotion

exercises have been conducted as per laid down norms and procedures."

6. Thus, it is apparent that sufficient information as such was available with the petitioner and he had never challenged the said order. However, he was agitating to receive his ACRs, which the respondent-Bank had been denying, but this could not take away his right to seek promotion on the basis of the information supplied by putting forth the fact that his ACRs had not been supplied.

7. To be fair to the learned Counsel for the appellant who has placed reliance upon the judgments of the Apex Court in ***Dev Dutt Vs. Union of India & others, (2008) 8 SCC 725, Abhijit Ghosh Dastidar vs Union Of India & others, (2009) 16 SCC 146 and Sukhdev Singh Vs. UOI & others, (2013) 9 SCC 566***, to contend that the denial of ACRs which are adverse would be material circumstances to be taken into consideration. However, the said letter of 2001, shows that the denial was also on other grounds, including, the petitioner not making the cut for making

promotion for over 10 years, which was never apparently subjected to any challenge.

8. The Apex Court in ***P.S. Sadasivaswamy vs. The State of Tamil Nadu, AIR 1974 SC 2271*** has held that for the promotion as such, the writ court has to be approached at the earliest.

9. Further, reliance can be placed upon the judgment passed by the Apex Court in ***Surjeet Singh Sahni v. State of U.P. and others, (2022) 15 SCC 536***, wherein it has held that mere representation does not extend the period of limitation and that the aggrieved person has to approach the Court expeditiously and within a reasonable time.

10. Further the principle of estoppel, which may be tacit or passive acceptance and amounts to reluctant consent to act, would also apply. Such neglect on the part of a party to assert his right and take appropriate steps within a reasonable period would stand in the way of such party in seeking relief at a belated stage. The relevant portion of the judgment in ***N. Murugesan's case (supra)***, reads as under:-

DELAY, LACHES AND ACQUIESCENCE:

20. *The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the Court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the Court.*

LACHES:

21. *The word laches is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.*

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the Court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy to a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the Court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.

23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

ACQUIESCENCE :

24. We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.

25. Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.”

11. The Apex Court in ***State of Uttar Pradesh and others v. Arvind Kumar Srivastava and others*** (2015) 1 SCC 347, has held that the principles of

estoppel and acquiescence would come into play with fence sitters. The relevant portion reads as under:-

"22.2 However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3 X X X X X X X X X X X X X X X X X X

23. Viewed from this angle, in the present case, we find that the selection process took place in the year 1986. Appointment orders were issued in the year 1987, but were also cancelled vide orders dated June 22, 1987. The respondents before us did not challenge these cancellation orders till the year 1996, i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments.

They woke up in the year 1996 only after finding that some other persons whose appointment orders were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the Court. It would also be pertinent to highlight that these respondents have not joined the service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of cancellation orders. Therefore, not only there was unexplained delay and laches in filing the claim petition after period of 9 years, it would be totally unjust to direct the appointment to give them the appointment as of today, i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above.”

12. In the present case, the filing of the writ petition at a belated stage, as noticed by the learned Single Judge, in the year 2017, just short to his retirement, would go on to show that the petitioner had never effectively challenged the denial of his promotion at an earlier point of time, which was due since 1990, though he had already been informed in 2001 when he

had filed complaint with the NCSCST in 2001. In such circumstances, the writ court being a court of discretionary relief, the learned Single Judge was well justified in denying the said benefits.

13. In such circumstances, there is no merit in the appeal. Accordingly, the same is dismissed alongwith pending application(s), if any.

(G.S. Sandhawalia)
Chief Justice.

September 03, 2026
(hemlata)

(Jiya Lal Bhardwaj)
Judge.