

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15999 of 2026

Decided on: 15th September, 2026

Union of India and others

...Petitioners

Versus

No.02471765-L Ex. Lance Naik Ranjit Kumar

...Respondent

Coram

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

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioners : Mr. Balram Sharma, DSGI with Mr. Rajeev Sharma,

G.S. Sandhawalia, Chief Justice (Oral)

The present writ petition challenges the order passed by the Armed Forces Tribunal Chandigarh Bench at Chandimandir, in O.A. No.656 of 2021, titled, ***No.02471765-L Ex. L/Naik Ranjit Kumar vs. Union of India and others***, dated 22.05.2025, whereby directions have been issued that the ex-serviceman is entitled to the grant of service element with effect from 01.06.2007.

2. In our considered opinion, the matter is covered, and the learned counsel for the Union of India also does not dispute the issue that on the ground of delay and laches, the writ petition must fail, having been filed on 18.08.2026 after a year and three months, at a leisurely pace by the Union of India.

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

3. The learned Tribunal has also relied upon an earlier order passed by it, which was duly upheld by the Apex Court in Civil Appeal Diary No.9346 of 2021, titled, ***Union of India and others versus Om Parkash Guleria*** on 27.08.2021, to come to the finding of entitlement of the ex-serviceman.

4. In the writ petition, there is no explanation as such given for the delay which had occurred in filing of the writ petition, which is after a period of one year. In a bunch of cases, the lead case of which was CWP No.2522 of 2025, titled, ***Union of India and others versus Pawna Devi***, decided on 25.02.2025, vide a detailed order, this Court had come to the conclusion that belated writ petitions could not be preferred by the Union of India, if there is a delay of over a year from passing of the order and if no challenge has been made to the order of the Tribunal within a reasonable time. In the set of cases, there was a legal opinion, on the basis of which delay was sought to be explained, which had not been accepted by this Court while relying upon a plethora of judgments on the said issue. The relevant portion of the judgment reads as under:

*“11. In service matters, the Hon’ble Apex Court has time and again held that the orders passed by the authorities regarding seniority etc. be challenged within a reasonable time and reference can be made in the judgment of **P.S. Sadasivcaswamy v. State of Tamil Nadu, AIR 1974 SC 2271**, whereby the right has been curtailed of the litigants to challenge the administrative orders or claim the right to*

seniority by filing the writ petitions.

12. The said principle can be kept in mind while deciding the present cases also. The concept of liberal approach has to be kept in mind, but the concept of reasonableness and a total unfettered free play cannot be permitted and there is a distinction between inordinate delay and delay of short duration. The fundamental principle before the Court is to weigh the balance of justice in respect of both parties and inaction of a party cannot be given the go-by in the name of a liberal approach and the lack of bonafide's which is a relevant factor

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20. In **Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others (2013) 12 SCC 649**, the principles of limitation were culled out as under:

- i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
- ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.
- iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
- iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
- v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
- vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.
- vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free

play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.”

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24. In *Pathapati Subba Reddy (died) by LRs and others vs. Special Deputy Collector (LA)* 2024 SC OnLine SC 513, it was also held that stale matters cannot be entertained to defeat the substantial law of limitation and Statute.

25. *It is not the case of Union of India that there is any fraud or misrepresentation in the present set of cases, whereby mainly the legal representatives of the Armed Forces are seeking redressal of their rights. The State or the public body can be given some acceptable latitude keeping in view the law laid down by the Hon'ble Apex Court in the principle of limitation and though no precise formula, as such, can be laid down, but we cannot brush aside the fact*

that the parties in view of the orders passed by the Tribunal could have also resorted to getting the orders executed by filing appropriate remedies and Tribunal has also granted the benefit of penal interest, if the payment is not made within the prescribed period. In spite of this fact the Union of India chose to sit tight and chose not to file the writ petitions within a reasonable period which can be classified as one year and beyond the same, no indulgence can be granted.

26. Therefore, the period prior to 18.10.2023 as such between the date of the decisions ranging from May/August/November, 2022 cannot be condoned in any manner and therefore, we are of the considered opinion that the present writ petitions are liable to be dismissed on the grounds of delay and laches as on account of Union of India not having resorted to its legal remedies expeditiously or even having made reasonable effort to challenge the said orders or even take a decision as such to challenge the said orders for a period of over one year. The latitude as such on account of laxity on the department, in such circumstances cannot be extended."

27. Without going into the merits of the cases, we are of the considered opinion that there is a delay of over a year from passing of the orders and no effort was made to challenge the order passed by the Tribunal within a reasonable time, therefore, on account of the opinion given on 18.09.2023, the Union of India cannot raise the issue on merits."

5. Keeping in view the above, the present petition is also dismissed on the ground of delay and laches in accordance with the principles set out herein above. Pending application(s), if any, also stand(s) disposed of.

(G.S. Sandhawalia)
Chief Justice

15th September, 2026

(ankit)

(Jiya Lal Bhardwaj)
Judge