

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CMP(M) No.16 of 2026 and**

**CMP(T) No.11 of 2026 in OA No.3669 of 1999**

**Decided on: 23<sup>rd</sup> September, 2026**

---

Shayam Singh Thakur

**...Applicant/Petitioner**

**Versus**

State of Himachal Pradesh and others

**...Non-applicants/Respondents**

---

*Coram*

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

*Whether approved for reporting?<sup>1</sup>*

---

For the petitioner: Mr. Naveen K. Bhardwaj, Advocate.

For the respondents: Mr. Rupinder Singh Thakur, Additional  
Advocate General.

---

**Jiya Lal Bhardwaj, Judge** (Oral)

By medium of the present applications, the applicant/petitioner has prayed for recalling the order dated 20.04.2006, passed by the erstwhile Himachal Pradesh Administrative Tribunal (in short “the Tribunal”), whereby the original application preferred by him was dismissed for non-prosecution and for condoning the delay in filing the application for restoration of the petition.

2. It has been averred in the application that the

---

<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the judgment?*

Tribunal had dismissed the original application on 24.04.2006 in default for non-prosecution, since neither the applicant/petitioner nor his counsel could appear on the said date. The applicant/petitioner was under the *bona fide* belief that the case was still pending. However, later on, he came to know that his earlier engaged counsel had unfortunately expired and the applicant/petitioner was unaware of this fact and, therefore, he could not take any steps in time to get the matter restored.

3. The applicant/petitioner engaged the present counsel after coming to know about the death of his earlier counsel and the present counsel after inquiring about the case from the Registry of this Court on 20.11.2025, came to know that the case was listed on 24.04.2006 and was already dismissed in default for non-prosecution. Due to the aforesaid reasons, the counsel could not put in appearance before this Court, when the aforesaid matter was called on 24.04.2006. It has further been averred that no harm or prejudice shall be caused to the respondents in case the

order dated 24.04.2006 is recalled and an opportunity is granted to the applicant/petitioner to proceed with the case. In the application for condonation of delay, similar reasons have been assigned.

4. The respondents filed replies to the applications for restoration of the petition as well as application for condonation of delay in filing the application for recalling the order. It has been averred in the preliminary submissions of the reply to the application for restoration of the petition that the application is not maintainable under law, as the applicant/petitioner has not been able to make out a case for restoration of the petition. There are no justifiable grounds in the application and further the application is not maintainable at this belated stage, as the original application was dismissed in default about 19 years ago and no steps whatsoever were taken by the applicant/petitioner during this long and unexplained period and as such the applications deserve to be dismissed.

5. It has further been averred that the

applicant/petitioner has not approached the Court within the stipulated period of limitation and it is well settled that a party cannot sleep over his rights for nearly two decades and thereafter seek restoration as a matter of course. The application is barred by delay and laches. No cogent, convincing and satisfactory grounds for not filing the appropriate application within a reasonable time have been assigned and mere assertion of the death of the counsel does not constitute a sufficient cause, particularly when the applicant/petitioner was always under an obligation to be vigilant about his own case and as such, prayed for dismissal of the applications for restoration of the petition as well as for condonation of delay.

6. I have heard the learned counsel for the parties and also perused the record carefully.

7. The application for restoration of the petition has been instituted after more than 19 years. The original application preferred by the applicant/petitioner came to be dismissed by the learned Tribunal on 20.04.2006 and not on

24.04.2006 and the application for its restoration after recalling the order of dismissing the original application in default for non-prosecution has been instituted on 28.11.2025. The reason which has been assigned in the application is only that the applicant/petitioner was under the *bona fide* belief that the case was still pending. Once the original application preferred by him came to be dismissed on 20.04.2006, the applicant/petitioner could have verified about the status of his case. It is not even mentioned in the application as to when the applicant/petitioner come to Shimla and engaged the present counsel. It has been stated that the present counsel after inquiring about the case from the Registry of this Court on 20.11.2025, came to know that the case was listed on 24.04.2006 and was already dismissed for non-prosecution. No sufficient cause or reasons have been assigned in the application for condonation of delay.

8. No doubt, it has been held time and again by the Hon'ble Supreme Court that the cases should be decided on merits and not on technicalities. However, at the same time,

the Court cannot ignore the inordinate and unexplained delay of 19 years in filing the application for restoration of the original application after condoning the delay. It is settled law that when a matter is decided in favour of a party, certain vested rights accrue in its favour. In the present case, there is no explanation at all, which warrants any discretion to be exercised in favour of the applicant/petitioner, who remained silent for about 19 years in approaching this Court for restoration of the petition, which came to be dismissed on 20.04.2006. There is neither plausible explanation in the application for restoration of the petition nor in the application for condonation of delay in filing the application for restoration.

9. Resultantly, both the applications for restoration of the petition as well as for condonation of delay are dismissed. No order as to costs. Pending application(s), if any, shall also stand disposed of.

**23<sup>rd</sup> September, 2026**

*(ankit)*

**( Jiya Lal Bhardwaj )  
Judge**