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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 04th SEPTEMBER, 2025

IN THE MATTER OF:

+ **LPA 566/2025**

JAGDISH CHANDER

.....Appellant

Through: Mr. Pulkit Prakash, AOR, Mr. Arjun Mohan, Ms. Arushi Sharma, Ms. Sriti Kashyap, Mr. Harsh Raj and Ms. Ankita Sinha, Advocates (DHCLSC).

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES

.....Respondent

Through: Mr. V.S.R. Krishna and Mr. V Shashank Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

CM APPL. 56018/2025 (Exemption)

Allowed, subject to all just exceptions.

LPA 566/2025 & CM APPL. 56019/2025, CM APPL. 56020/2025

1. Aggrieved by the Judgment dated 12.02.2020 passed by the learned Single Judge in W.P.(C) 5107/2016 dismissing the said writ petition, the Appellant herein has approached this Court by filing the present appeal.
2. At the outset, it is pertinent to mention that the appeal has been filed with an application being CM APPL. 56019/2025 seeking condonation of delay of 1067 days in filing the present appeal. There is also an application



being CM APPL. 56020/2025 seeking condonation of delay of 965 days in re-filing the present appeal. The Impugned Judgment was passed on 12.02.2020.

3. Paragraph No.3 of the application, which has been filed for condonation of delay of 1067 days in filing the appeal, enumerates the reasons of delay which read as under:

“3. That there has been a delay of 1067 days in filing the accompanying Appeal due to the reasons as enumerated herein below:

i. That the Appellant has no educational qualifications except being a 7th standard pass-out, due to which reason, the Appellant is not well versed with legal documents and the law in general.

ii. That the Appellant was employed as a “lab attendant” by the Respondent and has been unlawfully terminated as early as on 1997 by the Respondent, after which he has been knocking on all doors for justice. That the Appellant is a senior citizen as is now unable to follow up with the Court proceedings due to health reasons, due to which the present Appeal could not be preferred sooner.

iii. That the annexures pertaining to the present Appeal are considerably old documents, some even dating back to 1985, and the Appellant lost these documents after the conclusion of the Trial before the Ld. P.O., and therefore, took a lot of time to gather all such documents again.

iv. That the Appellant was told by the Respondent that certain documents requested by him, during the course of his employment, had been lost as they were subjected to a fire accident, and therefore, the Appellant lost a lot of time in procuring all such



documents.

v. That the Appellant had preferred an RTI application on 27.08.2022, for which an unsatisfactory reply was given on 23.11.2022, leaving the Appellant with no other choice but to investigate into such matters himself, for a satisfactory answer.”

4. Similarly, Paragraph Nos.2, 3 and 4 of the application, which has been filed for condonation of delay of 965 days in re-filing the appeal, enumerates the reasons of delay which read as under:

“2. That the Appeal was initially filed on 14.01.2023, and ever since, the Appellant has been dealing with medical exigencies in his family. Initially, the Appellant had to take care of his wife, who fell sick and was hospitalized for months. After that, the Appellant himself got sick and was unable to pursue the matter.

3. That in refiling the Appeal, there has been an inadvertent delay of 965 days, occasioned due to the medical exigencies faced by the Appellant, which rendered him unavailable during the relevant period.

4. That the delay is neither deliberate nor intentional but solely due to circumstances beyond the control of the Appellant. The Appellant has always acted bona fide and with due diligence.”

5. This Court has perused the aforesaid reasons. In the opinion of this Court, the Appellant has neither given any valid reasons for condoning the delay in filing the appeal nor has given any valid reasons for condoning the delay in re-filing the appeal.

6. It is well settled that a litigant cannot be sleeping like *Rip Van Winkle* and awaken much later to agitate their claims. It is well settled that the law



is for the vigilant and not for the indolent. After the period of limitation comes to an end, right enures to the other side and that right can only be taken away if the reasons for condoning the delay are bona-fide and it is explained in an appropriate manner.

7. The Apex Court in a catena of judgments has laid down the tests underlying the proposition of condoning the inordinate delay in filing the Appeal. In “Pathapati Subba Reddy (Died) By L.Rs. and Others vs. Special Deputy Collector (LA)”, [2024 SCC OnLine SC 513], the Apex Court has observed as under:

14. It may also be important to point out that though on one hand, Section 5 of the Limitation Act is to be construed liberally, but on the other hand, Section 3 of the Limitation Act, being a substantive law of mandatory nature has to be interpreted in a strict sense. In Bhag Mal alias Ram Bux v. Munshi (Dead) by LR., it has been observed that different provisions of Limitation Act may require different construction, as for example, the court exercises its power in a given case liberally in condoning the delay in filing the appeal under Section 5 of the Limitation Act, however, the same may not be true while construing Section 3 of the Limitation Act. It, therefore, follows that though liberal interpretation has to be given in construing Section 5 of the Limitation Act but not in applying Section 3 of the Limitation Act, which has to be construed strictly.

15. It is in the light of the public policy upon which law of limitation is based, the object behind the law of limitation and the mandatory and the directory nature of Section 3 and Section 5 of the Limitation Act that we have to examine and strike a balance between Section 3 and Section 5 of the Limitation Act in the matters of condoning the delay.



16. Generally, the courts have adopted a very liberal approach in construing the phrase ‘sufficient cause’ used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In *Collector, Land Acquisition, Anantnag v. Katiji*, this Court in advocating the liberal approach in condoning the delay for ‘sufficient cause’ held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of ‘sufficient cause’ for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. ***The phrases ‘liberal approach’, ‘justice-oriented approach’ and cause for the advancement of ‘substantial justice’ cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.***

17. It must always be borne in mind that while construing ‘sufficient cause’ in deciding application under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of a decree-holder accrues and this right ought not to be lightly disturbed. The decree-holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights.

18. This Court as far back in 1962 in the case of *Ramlal, Motilal And Chhotelal v. Rewa Coalfields*



Ltd. has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a 'sufficient cause' for various reasons, may refuse to condone the delay depending upon the bona fides of the party.

19. In *Maqbul Ahmad v. Onkar Pratap Narain Singh*, it had been held that the court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. **The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.**

20. In this connection, a reference may be made to *Brijesh Kumar v. State of Haryana* wherein while observing, as above, this Court further laid down that if some person has obtained a relief approaching the court just or immediately when the cause of action had arisen, other persons cannot take the benefit of the same by approaching the court at a belated stage simply on the ground of parity, equity, sympathy and compassion.

21. In *Lanka Venkateswarlu v. State of Andhra Pradesh*, where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. **The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice-oriented approach' and 'substantial justice'**



cannot be employed to jettison the substantial law of limitation.

22. It has also been settled vide *State of Jharkhand v. Ashok Kumar Chokhani*, that the merits of the case cannot be considered while dealing with the application for condonation of delay in filing the appeal.

23. In *Basawaraj v. Special Land Acquisition Officer*, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. ***The expression ‘sufficient cause’ as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large.*** It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

24. It would be beneficial to quote paragraph 12 of the aforesaid decision which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal approach and in implementing the statute as it stands. Paragraph 12 reads as under:

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means “the law is hard but it is the law”, stands attracted in such a



situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.”

25. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

(emphasis supplied)

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*



- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*
- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*
- (vii) Merits of the case are not required to be considered in condoning the delay; and*
- (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.*

27. It is in the light of the above legal position that now we have to test whether the inordinate delay in filing



the proposed appeal ought to be condoned or not in this case.”

(emphasis supplied)

8. The Apex Court in “H. Guruswamy and Others vs. A. Krishnaiah Since Deceased by Lrs.”, [2025 SCC OnLine SC 54], has observed as under:

“13. We "are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as “liberal approach”, “Justice oriented approach”, “substantial justice” should not be employed to frustrate or jettison the substantial law of limitation.

14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.

15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

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."

9. Applying the aforesaid law laid down by the Apex Court, this Court is of the opinion that the delay in filing and re-filing the present appeal has not been properly explained by the Appellant. Without the cause of delay being properly explained, the inordinate delay of 1067 days in filing the present appeal and 965 days in re-filing the present appeal cannot be condoned.

10. In view of the above, this Court is not inclined to condone the delay in the filing the present appeal.

11. However, in order to assuage the conscience, this Court has gone into the merits of the case as well. The case of the Appellant is that he was appointed by the Respondent as a Lab Attendant on 22.02.1985. It is stated that the Appellant's service was terminated on 01.08.1997 on the ground that no work was left to be done by the Appellant. It is stated that a policy of regularization was introduced by the Respondents in the year 1999. It is the case of the Appellant that he ought to have been re-instated and regularized. The Ld. Tribunal vide its Award dated 05.01.2016, which was under



challenge in the writ petition before the learned Single Judge, held that the Appellant has not worked on a regular basis with the Respondent from 22.02.1985 and he was hired for a fixed term for a particular purpose and his service came to an end automatically on 01.08.1997. The Ld. Tribunal, therefore, held that since the Appellant was working only on *ad hoc* basis with the Respondent, he cannot be treated as a regular employee. The Ld. Tribunal also rejected the contention of the Appellant that his termination of service from 01.08.1997 was not proper since his service was due to expire on 31.08.1997. For this purpose, a lump sum compensation of Rs.25,000/- was granted to the Appellant by the Ld. Tribunal.

12. Aggrieved by the Award dated 05.01.2016 passed by the Ld. Tribunal, the Appellant approached this Court by filing the writ petition being W.P.(C) 5107/2016.

13. The learned Single Judge vide the impugned Judgment dated 12.02.2020 upheld the finding of the Ld. Tribunal that the Appellant has not worked with the Respondent continuously. The learned Single Judge also held that the fact that the Appellant's service was terminated one month prior i.e., on 01.08.1997 instead of 31.08.1997 would not give any right of regularization to the Appellant because there was no such policy on the date when the Appellant's service was terminated. The policy of regularization came two years later i.e., in the year 1999.

14. Learned Counsel for the Appellant before this Court tries to contend that the Appellant was working continuously with the Respondent from 1985.

15. The contention of the learned Counsel for the Appellant cannot be accepted in view of the categorical finding of both the Ld. Tribunal and the



learned Single Judge that the Appellant was appointed by the Respondent in the year 1995 in a project, namely, National Poison Information Centre and he was not a regular employee of the Respondent. The Appellant was hired for a fixed term for a particular purpose and when his term was over, his service came to an end automatically.

16. Both the Ld. Tribunal and the learned Single Judge held that though there are documents to show that the Appellant was working with the Respondent since 1985 but the Appellant had worked on various projects and his contract was extended from time to time.

17. Since the facts of the case reveals that the Appellant has not worked on a regular basis with the Respondent, he was hired for a fixed term for a particular purpose, his contract was extended from time to time, his service was terminated on 01.08.1997 on the ground that no work was left to be done by the Appellant and his service came to an end automatically on 01.08.1997, this Court does not find any merit in the appeal.

18. In view of the above, this Court does not find any reason to entertain the present appeal either on the question of delay or on the ground of merits.

19. Resultantly, the appeal stands dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

SEPTEMBER 4, 2025

S. Zakir