

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.110 of 2025

In
Civil Writ Jurisdiction Case No.14112 of 2024

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Kumar Jai son of Sri Paras Nath Prasad, resident of Quarter No.C-11, Phase-02, Akashwani Colony, Chhajubagh, Police Station-Gandhi Maidan, District-Patna-800001.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Information and Broadcasting, Govt. of India, Shastri Bhawan, Rajendra Prasad Path, New Delhi-110001.
2. The Chief Executive Officer, Prasar Bharti (Broadcasting Corporation of India), Tower-C, Mandi House, Copernicus Marg, New Delhi-110001.
3. The Additional Director General (E.TRG) Examination Controller/Competent Authority, National Academy of Broadcasting and Multi Media, Kingsway Rosary School Road, Radio Colony, New Delhi, Delhi-110009.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Sr. Advocate. Mr. Venkatesh Kaushik, Advocate.
For the Opposite Party/s	:	Ms. Dr. Iti Suman, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PURNENDU SINGH)

Date : 18-03-2026

Heard learned senior counsel for the petitioner and
learned C.G.C. for the Union of India.



2. The present review application has been filed for review of the judgment dated 06.02.2025 passed by a Coordinate Bench of this Court in C.W.J.C. No.14112 of 2024 by which the writ petition preferred by the petitioner against the order dated 29.05.2024 passed by the Central Administrative Tribunal, Patna Bench was dismissed on the ground of limitation.

FACTS OF THE CASE

3. The brief facts of the case are that pursuant to Advertisement No. 01 of 2015 dated 27.11.2015 issued under a Special Recruitment Drive for Persons with Disabilities for appointment to the post of Cameraman Grade-II, the petitioner, being a 40% disabled candidate and possessing a Diploma in Cinematography from a recognized institute, applied within the prescribed time and was issued admit card and permitted to appear in the examination provisionally subject to production of a graduation certificate. Although the essential qualification in the advertisement provided for degree or diploma in cinematography from a recognized institute along with experience, the Opposite Parties, by letter dated 02.02.2016, required the petitioner to produce proof of equivalence of his diploma with a degree. Aggrieved, the petitioner initially



approached the Central Administrative Tribunal, Patna Bench in O.A. No. 524 of 2016, which was disposed of on 21.07.2016 with liberty to the Opposite parties to verify the genuineness of his qualification. Thereafter, the Opposite parties rejected his candidature *vide* order dated 05.10.2016 on the ground of non-fulfillment of the requirement of possessing a degree. The petitioner immediately challenged the said rejection by filing O.A., which was registered as O.A. No. 7 of 2017 within limitation; however, due to non-availability of the Division Bench at Patna, the matter was transferred to the Principal Bench, New Delhi on 12.10.2018 and re-registered as O.A. No. 3923 of 2018, which was subsequently permitted to be withdrawn on 20.09.2023 with liberty to file a fresh application. Pursuant thereto, the petitioner filed O.A. No. 158 of 2024, which was dismissed by the Tribunal on 29.05.2024 on the ground of limitation under Section 21 of the Administrative Tribunals Act, 1985. The said order was challenged by the petitioner in C.W.J.C. No. 14112 of 2024, which also came to be dismissed by judgment dated 06.02.2025 primarily on the ground that the challenge to the rejection order dated 05.10.2016 was barred by limitation. It is the case of the petitioner that he had, in fact, challenged the rejection order



promptly within time and had been continuously prosecuting his remedy before the Tribunal, but such material facts, though available on record and even reflected in the pleadings of the respondents, could not be brought to the notice of this Court at the time of hearing, resulting in an error apparent on the face of the record. It is further the case of the petitioner that he fulfills the requisite qualification as per the advertisement, there being no degree course in cinematography in India, and despite having been declared successful, his candidature was illegally rejected, causing serious prejudice to him.

ARGUMENT ON BEHALF OF THE PETITIONER

4. Learned senior counsel appearing on behalf of the petitioner reiterating the facts and events enumerated herein above submitted that the petitioner holds an appropriate degree of Diploma in Cinematography and had appeared in the examination held on 24.01.2016 for the post of Cameraman Grade-II pursuant to the Advertisement No. 01 of 2015. It is submitted that on 02.02.2016 he was called to furnish documentary proof that his diploma in Cinematography is equivalent to the degree sought in the aforesaid advertisement. Learned senior counsel submitted that aggrieved by the same, the petitioner approached Central Administrative Tribunal by



filing O.A. No. 524 of 2016, which was disposed of *vide* order dated 21.07.2016 with an observation directing the Opposite Parties to verify the qualification furnished by the petitioner. It is further submitted that upon verification, the claim of the petitioner was rejected on the ground of non-fulfillment of the essential qualification.

5. Learned senior counsel for the petitioner further submitted that pursuant to the advertisement related to Special Recruitment Drive for appointment of Persons With Disabilities, the petitioner applied for the same and after scrutiny of his application form, admit card was issued to the petitioner bearing Roll No. 403001. It is submitted that the petitioner had appeared at Kolkata Centre on 24.01.2016 and succeeded in the said examination whereafter his candidature was provisionally accepted. It is however, submitted that the *vide* letter dated 02.02.2016, it has been communicated to the petitioner that the acceptance of provisional candidature was subject to production of documentary proof that the 3-year diploma in Cinematography, which is possessed by the petitioner, is equivalent to the degree in Cinematography as required in the aforesaid advertisement. It is next submitted that the rejection of candidature of the petitioner *vide* order dated 05.10.2016 issued



by the Additional Director General (E. Trg.) is not in accordance with law, as the petitioner had earlier filed O.A. No. 050/524/2016 challenging the communication letter dated 02.02.2016, which was disposed of by the learned Central Administrative Tribunal, Patna Bench, *vide* order dated 21.07.2016, and thereafter, the petitioner again approached the learned Central Administrative Tribunal, Patna Bench by filing O.A. No. 07 of 2017, challenging the rejection order dated 05.10.2016 and seeking appropriate relief in continuation of his grievance.

6. Learned senior counsel in the above background submitted that the petitioner was pursuing remedy all through. It is submitted that the petitioner had filed O.A. No.524 of 2016 within time against the order of rejection communicated to him *vide* letter dated 02.02.2016 which fact has not been considered by this Court while dismissing the writ petition *vide* order dated 06.02.2025.

7. Learned senior counsel, moreover, submitted that petitioner cannot be said to be indolent and to have deliberately not availed the remedy before the Central Administrative Tribunal, Patna Bench within time in view of the above admitted facts. He submitted that the petitioner being conscious



of his right had availed remedy all through the Patna Bench and before the Principal Bench of Central Administrative Tribunal at New Delhi and upon dismissal of the O.A. petition, upon withdrawal with liberty to file fresh O.A., no order could have been passed on the ground of statutory limitation. It is submitted that the petitioner has rightly pointed out that O.A. No.158 of 2024 cannot be said to be filed beyond the period of limitation as the same has been filed as per the direction of the learned Central Administrative Tribunal, Principal Bench, New Delhi having jurisdiction. Learned senior counsel further asserts that dismissal of the O.A. on technical grounds has resulted in grave miscarriage of justice by defeating the substantive right of the petitioner of consideration for appointment despite possessing requisite qualifications, and hence, seeks review of the said order with a prayer for restoration of his claim and consequential liberty to pursue the matter on merits in accordance with law.

ARGUMENT ON BEHALF OF RESPONDENT

8. *Per contra*, learned counsel for the Union of India submitted that both the Central Administrative Tribunal, Patna Bench and the Division Bench of this Court are correct in rejecting the petition of the petitioner having challenged the



order/communication dated 05.10.2016 in filing O.A. No.158 of 2024 after delay of about six years and rejected the claim in the light of the law down in the case of ***P.S. Sadasivaswamy v. State of Tamil Nadu*** reported in ***(1975) 1 SCC 152*** and ***Ashok Kumar v. State of Bihar*** reported in ***(2017) 4 SCC 357***. Learned counsel further submitted that the subject matter of the advertisement issued in the year 2015 for the post of Grade-II has lost its force in the year 2016 itself. Therefore, it was not appropriate to entertain the grievance of the petitioner in the year 2024.

ANALYSIS AND CONCLUSION

9. Having heard the rival submissions of both the parties and upon perusal of the materials available on record, it transpires that the petitioner had applied for the post of Cameraman Grade-II pursuant to Advertisement Notice No. 01 of 2015 dated 27.11.2015 issued under a Special Recruitment Drive for Persons with Disabilities, and being duly qualified with a Diploma in Cinematography from a recognized institute, had appeared in the examination conducted on 24.01.2016, whereafter his candidature was provisionally accepted subject to verification of equivalence of the diploma qualification. It further appears that the same came to be rejected *vide* order



dated 05.10.2016 on the ground of non-fulfillment of eligibility criteria. Aggrieved by the said order of rejection, the petitioner filed O.A. No. 07 of 2017 before the Central Administrative Tribunal, Patna Bench which became defunct for non-availability of the member. The entire records allowing the transfer petition was transferred to the Principal Bench at New Delhi. The Principal Bench had granted liberty to the petitioner to withdraw the earlier proceedings with permission to file a *de novo*, better constituted, Original Application (O.A.) pursuant thereto, the petitioner filed fresh O.A. which was registered as O.A. No. 158 of 2024 before the Central Administrative Tribunal, Patna Bench challenging, *inter alia*, the vires of the Recruitment Rules governing the aforesaid advertisement of 2015. The same was dismissed solely on the ground of limitation without properly appreciating that the cause of action had been continuously agitated and remained *sub-judice* in earlier proceedings and that liberty had been expressly granted to institute a fresh application. The petitioner, therefore, has claimed that the dismissal of the O.A. on technical grounds has resulted in grave miscarriage of justice by defeating his substantive right of consideration for appointment despite possessing requisite qualifications, and hence seeks review of



the said order with a prayer for restoration of his claim and consequential liberty to pursue the matter on merits in accordance with law.

10. At this stage, it is apposite to reproduce paragraph nos. 2 and 3 of the judgment dated 06.02.2025 passed in CWJC No. 14112 of 2024, which under review are as herein under:

"2. Petitioner is a candidate for recruitment to the post of Cameraman Group-II pursuant to the Advertisement No. 01/2015 dated 27.11.2015. Earlier he had approached the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 3923 of 2018 along with M.A. No. 807 of 2023 and it was dismissed as withdrawn with liberty as prayed for. Resultantly, petitioner has presented O.A. No. 158 of 2024 before the Central Administrative Tribunal, Patna Bench, Patna. It is to be noted that in O.A. No. 3923 of 2018 along with M.A. No. 807/2023 petitioner grievance is in respect of communication dated 02.02.2016 in the light of Notification dated 27.11.2015. If the O.A. No. 524 of 2016 filed prior to 05.10.2016 in that event petitioner had every right to file miscellaneous application before CAT in assailing the communication/order dated 05.10.2016 which is the subject matter of O.A. No. 158 of 2024. Petitioner unnecessarily waited till disposal of O.A. No. 3923 of 2018 along with M.A. No. 807/2023 and it has been withdrawn at his instance. No doubt liberty has been granted. Such liberty is required to be taken note of in accordance with law. Insofar as challenge to communication/order dated 05.10.2016 in O.A. No. 158 of 2024 has been filed. According to Administrative Tribunal Act, 1985 aggrieved person is required to approach CAT within one year from the date of cause of action accrued to the aggrieved person. If there is a delay in filing O.A. there is a provision to condone the delay under Section 21 of the Administrative Tribunal Act, 1985. Be that as it may, there is a delay of about six years insofar challenge to order/communication dated 05.10.2016 in the light of the fact that O.A. No. 158 of 2024 has been filed. CAT has taken note of delay in para 13 of its order dated 29.05.2024 passed in O.A. No. 158 of 2024.

3. Courts/Tribunals time and again held that in respect of selection, appointment, promotion and seniority aggrieved person must knock door of the judicial forum within a reasonable period of time. Hon'ble Supreme Court



has also held the same in the case of P.S. Sadasivaswamy vs. State of Tamil Nadu reported in AIR 1974 SC 2271 and Ashok Kumar vs. State of Bihar reported in (2017) 4 SCC 357 delay would be hurdle. Having regard to the fact that subject matter of advertisement issued in the year, 2015 for the post of Cameraman Group-II has spent its force in the year 2016 itself. Therefore, it is not appropriate to entertain the petitioner's grievance in the year, 2024 when he had a cause of action accrued in the year, 2017 with reference to communication/order dated 05.10.2016 if one year period of limitation is taken into consideration."

SCOPE OF REVIEW

11. It is well settled principle of law that review is permissible only when:

- (i) new and important evidence is discovered and that could not have been produced earlier with due diligence,
- (ii) there is a mistake or error apparent on the face of the record or any other sufficient reason.

12. A review by its very nature contemplates reconsideration of the same subject by the same Judge or Judges while an intra court Appeal is heard by another Division Bench of this Court. Section 114 of the Civil Procedure Code creates a right to make an application for review under certain conditions and Order 47 provides for mode, manner and circumstances under which review petition can be made, heard and determined. No doubt procedure is meant to advance justice and as such cannot be treated as mandatory procedure, however, the



same should be followed as far as possible, keeping in view the cause of justice.

13. The power under Article 226 of the Constitution of India is exercised by the High Court in its equity jurisdiction and thus it has to do equity to the parties and to do complete justice to them and its power of review cannot be limited only in terms of Section 114 or Order 47 Rule 1 of the Code of Civil Procedure. By parity of reasoning, Order 47 and Rule 5 *ipso facto* would not be attracted in the writ proceeding, whereas a Civil Court trying a suit (or the High Court in exercise of original jurisdiction) is bound by the provision of Order 47 Rule 5 of the Code of Civil Procedure. The power to review is taken recourse to guide the High Court in exercise of its inherent jurisdiction.

14. The reason, as to why, the provision of Code of Civil Procedure is not applicable in the writ proceeding has been explained by the Apex Court in the case of ***Puran Singh & Ors. v. State Of Punjab & Ors.***, reported in ***AIR 1996 SC 1092***. The Hon'ble Apex Court in ***Puran Singh (supra)*** held that the provisions of Code of Civil Procedure were not applicable even before coming into force of Civil Procedure code (Amendment) Act 1976. It is further held that because of the explanation,



proceeding under Article 226 of the Constitution of India has been excluded and as such, there is no question of making applicable the procedure of Code as far as it can be made applicable to such proceeding. The procedures prescribed in respect of suit in the Code if are made applicable to the writ proceedings then in many cases, it may frustrate the exercise of extra-ordinary powers by the High Court under Articles 226 and 227 of the Constitution of India. High Court Rules is silent whether, the Code of Civil Procedure is to apply *mutatis mitandis*, as far as, they are not inconsistent with the said Rules. It is well settled that when abuse of process of law comes into play and exercise of power is in total disregard of all canons of justice and violative of acceptable norms and manifestly exposes clear abuse of the process of law, a writ Court cannot ignore it. The basic concept of Rule of Law by which the democracy is governed and the action which is likely to create an atmosphere of anarchy and curtails the right of a person, paves the path towards the darkest hour in a democracy and fossilizes the basic tenet of Rule of Law.

QUESTIONS OF LAW INVOLVED

15. The main questions, which arise for consideration in the present Civil Review Application is as to:



(i) whether the Central Administrative Tribunal has the power to condone the delay under Section 21 of the Administrative Tribunal Act, 1985 in filing an appeal beyond the period prescribed in the Statute?

(ii) *Secondly*, would the bar of limitation, which is intended not to affect a person honestly doing his best to have his case adjudicated on merits but failing due to the court's inability to provide such adjudication be inapplicable to an application filed under Section 19 of the Act of 1985?

(iii) *Thirdly*, can delay be condoned in case where sufficient cause has been shown by the appellant for condoning the delay?

16. For better appreciation of the case, Section 21 of the Administrative Tribunal Act, 1985 and Sub-Clause 2 of Section 29 of the Limitation Act, 1963 are reproduced hereinafter:

"Section 21 of the Administrative Tribunal Act, 1985 - (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been



made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

Section 29(2) in The Limitation Act, 1963

(2)Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

(Emphasis supplied)

17. For the purpose of determining the applicability of the Limitation Act, 1963 to the present dispute, it is pertinent to note:

(i) That Section 21 of the Administrative Tribunals



Act expressly deals with limitation wherein there is bar regarding the limitation period regarding filing of an Application in the light of the law laid down by the Apex Court in the case of *P.S. Sadasivaswamy (supra)* and *Ashok Kumar (supra)*.

(ii) Now, this Court refers to Section 29(2) of the Limitation Act, 1963 that there is an important departure made by the Limitation Act, 1963 insofar as the provision contained in Section 29 sub-section (2), is concerned. Under the Limitation Act, 1908, clause (b) to sub-section (2) of Section 29 provided that for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law the application of Section 5 was in clear and specific terms excluded. But under Section 29(2) of Act, the provisions of Section 5 shall apply in case of special or local law to the extent to which they are not expressly excluded by such special or local law. Since under the Limitation Act, 1963, Section 5 is specifically made applicable by Section 29(2), it is only if the special or local law expressly excludes the applicability of Section 5 that it would stand displaced.

18. The Hon'ble Apex Court while considering the provision of statutory bar of limitation contained in Section 35-



H of the Central Excise Act, in the case of ***Commissioner of Customs and Central Excise v. Hongo India Private Ltd. And Anr.***, reported in ***(2009) 5 SCC 791*** has explained the expression “expressly excluded” appearing in section 29(2) of the Limitation Act, 1963 which is as under:

“34. Though, an argument was raised based on Section 29 of the Limitation Act, even assuming that Section 29(2) would be attracted, what we have to determine is whether the provisions of this section are expressly excluded in the case of reference to the High Court.

35. It was contended before us that the words “expressly excluded” would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law which here in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court.”

19. This Court proceeds to consider the second question, it is settled that the bar of limitation should not affect a



person honestly doing his best to get his case tried on merits but failing because the court is unable to give him such a trial, would not be applicable to an application filed under Section 19 of the 1985 Act. The principle is clearly applicable not only to a case in which a litigant brings his application in the court, that is, a court having no jurisdiction to entertain it but also where he brings the suit or the application in the wrong court in consequence of *bonafide* mistake or (sic of) law or defect of procedure. Having regard to the intention of the legislature this Court is of the firm opinion that the equity underlying Section 14 should be applied to its fullest extent and time taken diligently pursuing a remedy, in a wrong court, should be excluded.

20. In this regard, a reference can be drawn from the judgment passed by the Apex Court in the case of ***Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department and Ors.***, reported in ***(2008) 7 SCC 169***, in which the Hon'ble Apex Court while considering the provision of statutory bar of limitation contained in Section 34(3) of the Arbitration and Conciliation Act, 1996 has held as under:

“22. The policy of the section is to afford protection to a litigant against the bar of limitation when he institutes a proceeding which by reason of some technical defect cannot be decided on merits and is dismissed. While considering the provisions of Section 14 of the Limitation



Act, proper approach will have to be adopted and the provisions will have to be interpreted so as to advance the cause of justice rather than abort the proceedings. It will be well to bear in mind that an element of mistake is inherent in the invocation of Section 14. In fact, the section is intended to provide relief against the bar of limitation in cases of mistaken remedy or selection of a wrong forum. On reading Section 14 of the Act it becomes clear that the legislature has enacted the said section to exempt a certain period covered by a bona fide litigious activity. Upon the words used in the section, it is not possible to sustain the interpretation that the principle underlying the said section, namely, that the bar of limitation should not affect a person honestly doing his best to get his case tried on merits but failing because the court is unable to give him such a trial, would not be applicable to an application filed under Section 34 of the Act of 1996. The principle is clearly applicable not only to a case in which a litigant brings his application in the court, that is, a court having no jurisdiction to entertain it but also where he brings the suit or the application in the wrong court in consequence of bona fide mistake or (sic of) law or defect of procedure. Having regard to the intention of the legislature this Court is of the firm opinion that the equity underlying Section 14 should be applied to its fullest extent and time taken diligently pursuing a remedy, in a wrong court, should be excluded."

21. It would appear from following facts and information that the petitioner has all along pursuing his remedy:

(i) On 27.11.2015, Advertisement Notice No. 01/2015 was published by the respondent authorities for appointments on several posts under the Special Recruitment Drive for Persons with Disabilities (PWDs).

(ii) On 24.01.2016: The petitioner appeared in the examination for the post of Cameraman Grade-II in Kolkata, and his candidature was provisionally accepted pending



documentary proof of diploma equivalence to a degree.

(iii) On 02.02.2016: The petitioner received a letter from the Examination Controller reiterating the need for documentary proof that his diploma was equivalent to a degree and requesting submission of his PWD certificate.

(iv) On 21.07.2016: The Central Administrative Tribunal, Patna Bench, disposed of the petitioner's first OA/050/524/2016, stating that the verification of the educational qualification was the responsibility of the respondent authorities.

(v) On 05.10.2016: The petitioner's candidature was rejected by the respondent authorities due to non-fulfillment of the eligibility requisites as per the recruitment rules.

(vi) In the year 2017: The petitioner challenged the rejection of his candidature by filing OA/050/07/2017 before the Central Administrative Tribunal, Patna Bench.

(vii) On 19.07.2018: A fresh circular (F.No. N-10/001(2)/2017-PBRB) was published by the respondent department, revising the Recruitment Rules for Cameraman Gr-II to include Degree/three years' diploma in cinematography as eligible criteria.



(viii) On 20.09.2023: The Central Administrative Tribunal, Principal Bench, New Delhi, allowed the petitioner to withdraw his OA/3923/2018 and granted liberty to file a better-worded Original Application.

(ix) On 29.05.2024: The Central Administrative Tribunal, Patna Bench, dismissed the petitioner's OA/158/2024 on the ground of delay in filing, despite the petitioner explaining the continuous sub-judice status of the matter and the liberty granted by the Central Administrative Tribunal, Principal Bench, New Delhi.

22. In the present case, the petitioner's continuous pursuit of legal remedies, coupled with the liberty granted by the Tribunal to file a fresh application, clearly constituted a justifiable ground for condonation of delay, and the rejection thereof has resulted in manifest miscarriage of justice.

23. Adverting to the third question, it emerges from the backdrop of the settled legal position governing condonation of delay, the impugned order dated 29.05.2024 passed by the learned Central Administrative Tribunal, Patna Bench, dismissing O.A. No. 158 of 2024 solely on the ground of limitation, cannot be sustained in law. The material on record would indicate that the petitioner had been diligently pursuing



his remedies before the appropriate fora, including the Principal Bench at New Delhi, and had withdrawn the earlier proceedings only upon liberty being expressly granted to institute a fresh and better constituted Original Application. In such circumstances, the delay, if any, stood sufficiently explained and constituted a “sufficient cause” within the meaning of law, particularly when the cause of action had remained alive and under continuous adjudication. The Tribunal, however, fell into error in adopting a hyper-technical approach by emphasizing the period of delay rather than examining the sufficiency and *bona fides* of the explanation offered, and further erred in failing to appreciate that the petitioner’s substantive right to be considered for appointment pursuant to Advertisement Notice No. 01 of 2015 was being defeated on procedural grounds. It is equally well settled that while considering an application for condonation of delay, the court or tribunal ought not to delve into the merits of the case but must confine itself to the question as to whether sufficient cause has been shown.

24. Law in this regard is settled by the Hon’ble Apex Court in the case of *Mool Chandra v. Union of India and Anr.* reported in (2025) 1 SCC 625, and I find it apt to reproduce paragraph nos. 20 to 25 of the said judgment which *inter alia*



are as follows:

"20. Be that as it may. On account of liberty having been granted to the appellant to pursue his remedy in accordance with law, yet another OA No. 2066 of 2020 along with an application for condonation of delay came to be filed. The delay was not condoned by the Tribunal on the ground that it was filed more than one year after the impugned order came to be passed. No litigant stands to benefit in approaching the courts belatedly. It is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of "sufficient cause", irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned.

21. In this background when we turn our attention to the facts on hand, it would emerge from the records that the appellant being aggrieved by the dismissal of OA No. 2066 of 2020 on the ground of delay had approached the Delhi High Court challenging the same. The High Court on the ground of penalty imposed being a minor penalty, refused to entertain the writ petition or in other words confirmed the order impugned before the Tribunal on merits.

22. This Court in Commr. v. Labour Commr. [Commr. v. Labour Commr., (2009) 3 SCC 525 has taken a view that while deciding an application for condonation of delay the High Court ought not to have gone into the merits of the case. It has been further held :

"5. While deciding an application for condonation of delay, it is well settled that the High Court ought not to have gone into the merits of the case and would have only seen whether sufficient cause had been shown by the appellant for condoning the delay in filing the appeal before it. We ourselves have also examined the application filed under Section 5 of the Limitation Act before the High Court and, in our opinion, the delay of 178 days has been properly explained by the appellant. That being the position, we set aside the impugned order of the High Court. Consequently, the appeal filed before the High Court is restored to its original file. The High Court is requested to decide the appeal on merit in accordance with law after giving hearing to the parties and after passing a reasoned order."

23. If negligence can be attributed to the appellant, then necessarily the delay which has not been



condoned by the Tribunal and affirmed by the High Court deserves to be accepted. However, if no fault can be laid at the doors of the appellant and cause shown is sufficient then we are of the considered view that both the Tribunal and the High Court were in error in not adopting a liberal approach or justice-oriented approach to condone the delay. This Court in Municipal Council, Ahmednagar v. Shah Hyder Beig [Municipal Council, Ahmednagar v. Shah Hyder Beig, (2000) 2 SCC 48] has held :

“6. Incidentally this point of delay and laches was also raised before the High Court and on this score the High Court relying upon the decision in Abhyankar case [N.L. Abhyankar v. Union of India, 1994 SCC OnLine Bom 574 observed that it is not an inflexible rule that whenever there is delay, the Court must and necessarily refuse to entertain the petition filed after a period of three years or more which is the normal period of limitation for filing a suit. The Bombay High Court in Abhyankar case [N.L. Abhyankar v. Union of India, 1994 SCC OnLine Bom 574 stated that the question is one of discretion to be followed in the facts and circumstances of each case and further stated :

‘22. ... The real test for sound exercise of discretion by the High Court in this regard is not the physical running of time as such but the test is whether by reason of delay, there is such negligence on the part of the petitioner, so as to infer that he has given up his claim or whether before the petitioner has moved the writ court, the rights of the third parties have come into being which should not be allowed to be disturbed unless there is reasonable explanation for the delay.’ ”

24. Applying the aforesaid principles which we are in complete agreement to the facts on hand and test the same it would not detain us for too long to set aside the impugned orders [Mool Chandra v. Union of India, 2023 SCC OnLine Del 8673] · [Mool Chandra v. Union of India, 2023 SCC OnLine Del 8674] , inasmuch as the delay of 425 days in filing fresh OA No. 2066 of 2020 has been succinctly explained by the appellant before the Tribunal, namely, it has been contended that there was no intimation of withdrawal of the earlier OA by his counsel and the order of withdrawal dated 10-8-2018 [Mool Chandra v. Union of India, 2018 SCC OnLine CAT 28651] does not reflect that such withdrawal was based on any memo duly signed by the appellant. Further, the High Court has proceeded to confirm the order of the Tribunal on the footing that penalty imposed on the appellant is only a minor penalty, namely, withholding of one increment without cumulative effect, by completely ignoring the fact that in the earlier round of litigation it had been clearly



held that punishment of dismissal imposed on the appellant was totally disproportionate to the alleged act.

25. In the normal circumstances we would have remitted the matter back to the Tribunal or the High Court or to the disciplinary authority for reconsideration of the matter but we desist from doing so for reasons more than one firstly, the age of the appellant is 68 years (as on date); and, secondly, there being no evidence whatsoever available on record to arrive at a conclusion that the appellant is guilty of the charge; thirdly, the complainant herself had withdrawn the complaint made and she was not even examined on behalf of the employer to prove the charge. Thus, the findings of the enquiry officer cannot be sustained by any stretch of imagination as it is contrary to the facts and records on hand. There cannot be judicial review of nature of penalty to be imposed by disciplinary authority. Hence, we set aside the impugned orders [Mool Chandra v. Union of India, 2023 SCC OnLine Del 8673] · [Mool Chandra v. Union of India, 2023 SCC OnLine Del 8674] and hold that the appellant is entitled for all consequential benefits flowing from the setting aside of the orders of penalty and the respondents are directed to take steps in this regard expeditiously and at any rate within 3 months from the date of receipt of copy of this order. Accordingly the appeals stand allowed with no order as to costs.”

25. We find that the present is the one case in which exercise of power to review the judgment dated 06.02.2025 in view of the recorded facts, reason given on behalf of the petitioner and information as having brought to the notice of this Court having been considered by us, the order dated 06.02.2025 requires to be rectified to the extent that the fact that petitioner was honestly doing his best to get his case adjudicated and has shown his sufficient cause to hold the said period to be exempted and his application filed on 28.01.2024 before the learned Central Administrative Tribunal, Patna Bench is required to be adjudicated. We accordingly quash and set aside



the order dated 06.02.2025. The delay is condoned in filing the O.A. No. 158 of 2024.

26. Accordingly, we direct the learned Central Administrative Tribunal, Patna Bench, Patna to decide the O.A. No. 158 of 2024 on merits in accordance with law.

27. With the above observation/direction, the present review application stands disposed off.

(Purnendu Singh, J)

(Sunil Dutta Mishra, J)

Ritik/-Rakhi/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03.04.2026
Transmission Date	NA

