S. No. 3
Regular list

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CM(M)/21/2020

ABDUL RASHID SHORA …Petitioner(s)/Appellant(s)

Through: Mr. Sheikh Nisar Hussain, Advocate.

Vs.

KEE PHARMA THROUGH ITS MANAGING DIRECTOR AND ORS. …Respondent(s)

Through: Mr. Sajad Gulzar, Advocate.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI JUDGE

ORDER
06.11.2026

1. The petitioner namely Abdul Rashid Shora had initiated proceedings under the Payment of Wages Act, 1936 by laying a petition bearing file No. **757-B/ITLC/2003** instituted on **19.05.2003** under section 15 of the Payment of Wages Act, 1936 before the Industrial Tribunal-cum-Labour Court, J&K, Srinagar.
2. Said proceedings initiated by the petitioner had remained on the docket of the file No. 757-B/ITLC/2003 for almost twelve years when on account of ten consecutive defaults in appearance on behalf of the petitioner, the Industrial Tribunal-cum-Labour Court, J&K, Srinagar, came to dismiss said claim petition for non-prosecution in terms of an order dated **10th June, 2015.**
3. Rule 8 of the Payment of Wages (Procedure) Rules, 1937, provides scope for dismissal of an application filed under section 15 of the Payment of Wages Act, 1936, for non-prosecution.

4. The Proviso to rule 8 provides scope for rehearing of an application dismissed for non-prosecution upon good cause being shown within one month from the date of dismissal of the case.
5. It took petitioner more than three years to come to realization that his claim petition had suffered dismissal for non-prosecution on account of ten consecutive defaults in appearance on his part.
6. The petitioner, thus, approached the Industrial Tribunal-cum-Labour Court, J&K, Srinagar, with a time-barred restoration application on **file No. 103-13-A/ITLC/2018**, **filed on 9th April, 2018**, thereby seeking condonation of delay in maintaining the restoration application for restoration of his claim petition to its original number.
7. The Industrial Tribunal-cum-Labour Court, J&K, Srinagar, by virtue of an order dated **2nd May, 2019**, was not able to find any scope for condoning the delay by reference to the purported cause put forth by the petitioner in his application for condonation of delay, wherein the entire blame was sought to be placed on the shoulders of the counsel engaged by the petitioner for pursuing his claim petition.
8. A condonation of delay does not go with the length of the delay. A delay of a short period may not admit of condonation, whereas a delay of a long period may admit of condonation upon good cause being shown by an aggrieved party.
9. What is required is to convince the authority, be it judicial or quasi-judicial, that the default on the part of the aggrieved applicant occurred for the good cause set up in the application for condonation of delay and that such cause, in the interest of justice, needs to be accepted for

condoning the delay in relation to the particular proceedings intended to be revived/restored.

10. In the present case, the petitioner, in his application for condonation of delay, came up with a very far-fetched pretext of accusing his counsel being negligent and even attributing to him a misplaced limitation that post-floods, the tribunal had remained closed and had not been shifted to temporary court premises at Sanatgarh, Srinagar, whereas all other courts of District Srinagar had been shifted to function. Even excuse of Industrial Tribunal-cum-Labour Court, J & K Srinagar, without being a presiding officer came to be set up.

11. All the aforesaid pretext failed to convince the Industrial Tribunal-cum-Labour Court, J&K, Srinagar, to accord condonation of delay in favour of the petitioner for restoring his claim petition to its original number.

12. The Industrial Tribunal-cum-Labour Court, J&K, Srinagar, reckoned delay of 1095 days as un-condonable on account of there being no satisfactory explanation and reasons coming forth from the petitioner and the same being very vague.

13. The petitioner came forward with the present petition, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India to question the exercise of discretion by the Industrial Tribunal-cum-Labour Court, J&K, Srinagar, in passing the order dated **2nd May, 2019.**

14. This Court cannot lose sight of the fact that the restoration application was filed before the very same Industrial Tribunal-cum-Labour Court, J&K, Srinagar, which had dismissed the petitioner's claim petition and

was thus in a best position to examine the excuses put forth by the petitioner relatable to negligence on the part of his counsel, the flood-generated situation and the absence of a Presiding Officer in the Industrial Tribunal-cum-Labour Court, J&K, Srinagar.

15. On all three counts, the Presiding Officer of the Industrial Tribunal-cum-Labour Court, J&K, Srinagar, was not convinced with the petitioner's explanation, which fell short of constituting cause, much less sufficient good cause, for enabling condonation of the delay of 1095 days.

16. This Court would have ventured to consider the petitioner's cause with some element of leniency but when the timeline of the petitioner's claim petition is taken into consideration which dates back to 2003, and in case its restoration is allowed to take place in November 2026, then perhaps nothing would suffer greater casualty than the cause of justice itself. With such a long passage of time, the employer of the petitioner might have dispensed with the service records relatable to the petitioner, thereby causing prejudice to the employer's defence in the proceedings before the Industrial Tribunal-cum-Labour Court, J&K, Srinagar.

17. Thus, this Court is not inclined to grant indulgence in the matter, on the asking of the petitioner. The petition is, thus, **dismissed**. The petitioner is, however, relieved from payment of costs of Rs. 2,000/- imposed in terms of order dated 11th September, 2026.

(RAHUL BHARTI)
JUDGE

SRINAGAR
05.11.2026
Hilal Ahmad