Neutral Citation No. (2026:JHHC:29877-DB)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 712 of 2025

Rashtriya Colliery Mazdoor Sangh through its Senior Vice President namely Suresh Kumar Sinha having office at Angarpathra Colliery, Near Football Ground, P.O. & P.S. Katraas, District Dhanbad, PIN-828113.

... ... Appellant

Versus

1. Union of India through its Secretary, the Ministry of Labour & Employment, Shram Shakti Bhawan, at Rafimarg, P.O. & P.S.Rafimarg, New Delhi.
2. Under Secretary, Government of India, T. No.-23473149, Ministry of Labour & Employment, Shram Shakti Bhawan, At-Rafimarg, P.O. & P.S. Rafimarg, New Delhi.
3. Assistant Labour Commissioner (Central), D-II, Ministry of Labour & Employment, Government of India, Shram Bhawan, P.O. & P.S. Jagjiwan Nagar, District Dhanbad.
4. M/s Bharat Coking Coal Ltd. (in short M/s BCCL) through its General Manager, Western Jharia Area (in short the management), At & P.O. –Moonidih, P.S. Putaki, District Dhanbad.

… … ... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant : Mr Ajay Kumar Singh, Advocate
For the Respondent-BCCL: Mr Amit Kumar Sinha, Advocate

Reserved On : 23/09/2026 **Pronounced On: 06/10/2026**

Per: Manoj Prasad, J.

1. Heard Mr Ajay Kumar Singh, for the appellant and Mr Amit Kumar Sinha, for the respondent-BCCL.

2. This I.A. being I.A. No.7311 of 2025 for condonation of delay of 287 days in filing the present appeal.

3. The appeal challenges the judgment and order passed by the Single Judge of this Court in W.P.(L) No.7108 of 2023 vide order dated 26.07.2024, whereby the writ petition filed by the appellant (original petitioner) was dismissed.

4. Mr Ajay Kumar Singh, learned counsel appearing for the appellant, submits that there is a delay of 287 days in filing the appeal. The impugned order was pronounced on 26.07.2024, but the appellant came to know of the impugned order on 08.08.2024 from the concerned advocate's clerk and thereafter applied for a certified copy on 09.08.2024, which was supplied by the Registry on 20.08.2024. The period of limitation for filing of the instant appeal expired on 02.09.2024.

5. It is pleaded that the appellant contacted the son of the deceased workman, Ganesh Rawani, and suggested that he challenge the impugned order before the Division Bench. The said dependent was a poor person, and he took time to arrange for money in filing the instant appeal and thereafter, on making arrangements for money, the appellant contacted his counsel at Ranchi, and the appeal was filed on 16.06.2025, and there is a reported delay of 287 days, for which prayer has been made to condone the delay.

6. In the course of arguments, learned counsel has also submitted that the valuable right of the dependent, the son of the deceased workman, would be affected if the appeal is not heard on merits and submitted that the same is also a ground

for condoning the delay, considering the substantial right of the appellant and also considering the better interest of justice in favour of the appellant.

7. Learned counsel appearing on behalf of the respondents opposes the application for condoning the delay and submits that in this case, no ground is made out to condone the delay. Learned counsel has further submitted that the law is settled that a valid explanation must be given to condone the delay. Mere excuses cannot be a reason for condoning the delay, more so when the writ as well as the present appeal have been filed by an organisation, i.e., Rashtriya Colliery Mazdoor Sangh, the plea of the workman being poor or that he was not aware of the passing of the impugned order is ex facie not tenable.

8. Learned counsel has also submitted that it is a peculiar instance where the claim of the appellant itself was a stale claim, the appellant should have been diligent. He submitted that, admittedly, the employee died on 24.07.2004 and the dispute for compassionate appointment was raised for the first time after more than 17 years, i.e., on 12.10.2021, and the Writ was filed in the year 2023. He submitted that the whole jurisprudence of compassionate appointment, which intends to protect the family to tide over the sudden crisis arising out of the death of the workman, does not apply to the facts of the present case.

9. The death of the workman had taken place in the year 2004, and raising the dispute for the first time in the year 2021, i.e. after more than 17 years, does not satisfy the purpose of compassionate appointment to give immediate relief to the family of the breadwinner whose sudden death has caused a void in the family.

10. Having heard the rival contentions and perused the material on record, we now proceed to determine whether any case is made out to condone the delay and admit this appeal.

11. Admittedly, the Single Judge of this Court decided the writ on 26.07.2024 and, as per the office report, there is a delay of 287 days; the sole ground taken for condoning the delay is the poverty of the dependent of the deceased workman. The other grounds relate to a lack of information regarding the passing of the impugned order.

12. Under Section 5 of the Limitation Act, sufficient cause must be shown to condone the delay, and the Courts generally take a pragmatic and justice-oriented approach. Justice consistently establishes firm boundaries, and delay cannot and will not be condoned unless properly explained. Negligence and lack of bona fides must be considered when deciding an application to condone the delay. The law is settled that unexplained inaction and vague or routine explanations cannot be considered sufficient cause for condoning the delay. The law is also settled that there is a distinction between ‘explanation’ and an ‘excuse’.

A valid explanation may be a good ground for condoning the delay, but a mere excuse explaining the party's lethargy cannot be a reason for condoning the delay.

13. We are of the considered view that in the facts of the present case and in the premise of law as laid down in **State of Odisha and Others Vs. Managing Committee of Namatara Girls High School, 2026 SCC OnLine SC 191**, where the Hon'ble Supreme Court has categorically stated that if it is a case of utter lethargy, tardiness and indolence, inordinate delay cannot be condoned.

14. The law is also settled that, when deciding an application to condone delay, the merits of the case cannot be considered. However, since learned counsel for the appellant has endeavoured to impress upon this Court that issues of substantial justice are involved and has argued the factual aspects of the case as well, we are constrained to make certain observations on the facts of the present case.

15. The Union, which has espoused the cause of the deceased workman, is the appellant. No pleadings address the financial health of the Union. The ground about the lack of finances cannot therefore be accepted. Besides, the impugned order was made after hearing the counsel for the Union. Therefore, lack of knowledge about the passing of the impugned order also cannot be easily accepted. These are mere excuses and not explanations.

16. The record shows that the workman died in the year 2004 and that the claim for compassionate appointment was first raised after 17 years. The reference was rejected on the ground of staleness and inordinate delay. We find no error in rejecting such a stale claim, particularly in matters of compassionate appointment.

17. The Hon'ble Supreme Court in ***Central Coalfields Limited through its Chairman and Managing Director and Others Vs. Parden Oraon, reported in (2021) 16 SCC 384,*** has held that compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis arising out of the death of the breadwinner is over.

18. Dealing with the same aspect, the Hon'ble Supreme Court in the matter of ***State of West Bengal Vs. Debabrata Tiwari and Others, reported in (2025) 5 SCC 712,*** has held that the Supreme Court has consistently held that compassionate appointment is granted only to meet the immediate, unexpected hardship faced by the family consequent to the death of the breadwinner, and the following principles emerge on consideration of various Supreme Court decisions:

> *(i) Provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment and hence is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives i.e. to enable the family of the deceased to get over the sudden financial crisis;*

(ii) appointment on compassionate grounds is not a source of recruitment but is intended to ensure that the dependants of the deceased are not deprived of the means of livelihood;

(iii) compassionate appointment is not a vested right which can be exercised at any time in future and cannot be claimed or offered after a lapse of time and after the crisis is over;

(iv) compassionate appointment should be provided immediately to redeem the family in distress, and such cases cannot be kept pending over years; and

(v) In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source."

19. The facts of the present case militate against the jurisprudence of compassionate appointment, as neither any case of exigency is made out, nor any explanation is given as to why this claim to compassionate appointment was raised after such a long delay. Apparently, the deceased workman's son was only taking a chance by involving the Union.

20. In the matter of **Prabhakar Vs. Joint Director, Sericulture Department and Another, reported in (2015) 15 SCC 1,** the Hon'ble Supreme Court**,** by referring to its earlier decisions**,** observed as follows:

25. *In Nedungadi Bank Ltd. V. K.P. Madhavankutty the Court cautioned that power of reference should be exercised reasonably and in a rational manner and not in a mechanical fashion. It was specifically observed that power to make reference cannot be exercised to revive settled matters or to refer stale disputes in spite of absence of statutory limitation period. The Court not only reiterated that the Courts had power of judicial review, though to a limited extent, but also made the following pertinent observations on delay:*

"Law does not prescribe any time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact, it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial dispute was ex facie bad and incompetent."

28.4 *"Whether dispute is alive or it has become stale/non-existent at the time when the workman approaches the appropriate Government is an aspect which would depend upon the facts and circumstances of each case and there cannot be any hard and fast rule regarding the time for making the order of reference."*

21. We are, therefore, of the considered view that the dispute raised by the appellant was stale due to the lapse of such a long period and could not be given life by mere belated filing of a writ petition.

22. This is apart from the fact that, despite dismissal of the writ petition, the appellant delayed filing the present appeal by 287 days without any valid explanation, i.e., without sufficient cause; hence, I.A. No.7311 of 2025 for condoning the delay is hereby dismissed.

23. Consequently, the appeal also stands disposed of under Section 3 of the Limitation Act. Any other I.A.'s, if pending, stand disposed of.

24. No order as to costs.

(M. S. Sonak, C.J.)

(Manoj Prasad, J.)

October, 6, 2026
BS/-
A.F.R.