HC-KAR

NC: 2026:KHC:59726-DB
WP No. 23868 of 2026

CNR: KAHC010531102026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO. 23868 OF 2026 (S-CAT)

BETWEEN:

1. THE UNION OF INDIA
REPRESENTED BY ITS SECRETARY,
MINISTRY OF DEFENCE,
SOUTH BLOCK,
NEW DELHI-110 001.

2. THE DIRECTOR GENERAL
AERONAUTICAL QUALITY ASSURANCE,
MINISTRY OF DEFENCE,
DEFENCE OFFICE COMPLEX, KG MARG,
NEW DELHI-110 001.

Digitally signed by AASEEFA PARVEEN
Location: HIGH COURT OF KARNATAKA

2. THE REGIONAL DIRECTOR,
ALISDA AND ADG (SZ),
MINISTRY OF DEFENCE,
JALAHALLI CAMP ROAD,
YESHWANTHPUR P.O.,
BENGALURU-560 022.

...PETITIONERS

(BY SRI. JAYAKARA SHETTY H., CGC)

CNR: KAHC010531102026

AND:

SHRI V. BHASKAR,
S/O.LATE VENKATARAMANAPPA,
AGED ABOUT 66 YEARS,
RTD. JUNIOR SCIENTIFIC ENGINEER,
ALISDA AND ADG (SZ),
JALAHALLI CAMP ROAD,
YESHWANTHPUR P.O.,
BENGALURU-560 022.
R/AT. NO.E-3, S NO.152/2,
2ND FLOOR, DODDANEKKUNDI,
BANGALORE-560037.

…RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO CALL FOR RECORDS FROM THE HONBLE CAT, BANGALORE, WHICH ULTIMATELY RESULTED IN PASSING THE IMPUGNED ORDER ANNEXURE-A DATED 23.11.2023 MADE IN OA No. 170/00368/2022 BY THE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE AND ISSUE AN ORDER, DIRECTION, WRIT IN THE NATURE OF WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE ORDER, DIRECTION, WRIT QUASHING THE ORDER DATED 23.11.2023 ANNEXURE A MADE IN OA No. 170/00368/2022 BY THE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE AND DISMISS THE O.A. No. 170/00368/2022 FILED BY THE RESPONDENT.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

CNR: KAHC010531102026

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The petitioners, Union of India and other authorities, aggrieved by the order dated 23.11.2023 in OA No.170/00368/2022 passed by the Central Administrative Tribunal, Bengaluru Bench, Bengaluru are before this Court in this writ petition, whereunder the respondent's prayer for grant of non-functional financial upgradation benefit of the grade pay of Rs.5,400/- in Pay Band-2 to the applicant with effect from 05.10.2014 with all consequential benefits is directed to be considered in an expeditious manner.

2. Heard learned CGC Sri.Jayakara Shetty for petitioners and perused the entire writ petition papers.

3. At the outset, it is seen that the order impugned passed by the Tribunal is dated 23.11.2023, whereas the present writ petition is filed before this Court on 30.07.2026 after nearly 3 years from the date of order

passed by the Tribunal. At paragraph 8 of the Writ Petition, it is stated that considerable time has been consumed in taking appropriate administrative decision in the matter of filing the writ petition. Thereafter, learned counsel for the petitioner filed additional affidavit of the Principal Scientific Officer of third petitioner dated 08.10.2026 to explain the delay.

4. We have gone through the affidavit dated 08.10.2026 filed by one of the officers of third petitioner. The affidavit would only state the file movement from the date of receipt of the certified copy of the order by the third petitioner. The affidavit would give dates of movement of file from one table to another table from Bangalore Office to New Delhi Office. Except indicating the date of file movement from one table to another table, there is no bonafide explanation or reasons in the entire affidavit. The movement of files from one table to another table for nearly 3 years cannot be considered as bonafide reason to condone the delay.

5. Learned CGC for the petitioners Sri.Jayakara Shetty places reliance on the decision of the Hon'ble Apex Court in the matter of condonation of delay on the following decisions:

1. *(1998) 7 SCC 123 N.Balakrishnan vs. M.Krishnamurthy.*
2. *(1988) 2 SCC 142 G.Ramegowda Major etc vs. Spl. Land Acquisition Officer.*
3. *(1996) 3 SCC 132 State of Haryana vs. Chandramani and Others.*
4. *(1987) 2 SCC 107 Collector, Land Acquisition, Anantnag and Another vs. Mst.Katiji and Others.*

6. We have gone through the above decisions. The above decisions are rendered on different factual situations. However, those decisions would say that delay shall have to be Liberally construed. We are respectfully in agreement with the principles laid down in the above decisions of the Hon'ble Apex Court. However, this Court would take note of the recent decision of the Hon'ble Apex Court in ***SHIVAMMA (DEAD) BY LRs VS KARNATAKA HOUSING BOARD*** reported in ***2025 SCC OnLine SC***

1969, whereunder, the Hon'ble Apex Court at relevant paragraphs of the said judgment reads as under:

> *"**212.** The law as it presently stands, post the decision of Postmaster General (supra), is unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bona fide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant.*
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> ***213.** From a combined reading of Bal Kishan Mathur (supra) and Sheo Raj Singh (supra) it is equally manifest that the ratio of Postmaster General (supra) is, in essence, twofold. **First**, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would not only compromise the sanctity of limitation. The earlier view, insofar as it favoured a liberal approach towards the State or any of its instrumentality is no more the correct position of law. **Secondly**, that the habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a "sufficient cause" for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation.*
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> ***XXXXXX***
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> ***216.** In this regard, the vital test that has to be employed, wherever "sufficient cause" is sought to be demonstrated on the ground of bureaucratic inefficiencies is to distinguish between whether the same is an "explanation" or an "excuse". Although the two*

may appear to be one and the same, yet there exists a fine but pertinent distinction between an "excuse" and an "explanation".

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261. *Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.*

262. *The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.*

263. *Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More*

than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. *No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."*

7. The delay of nearly 3 years in the instant case cannot be considered as reasonable delay. The petitioners have failed to explain the delay and the affidavit dated 08.10.2026 would not indicate any bonafide reasons. Unless cogent or bonafide reasons are assigned, this Court would not be in a position to condone the delay. The delay appears to be for the reason that the officers were not serious or were sleeping over the matter.

8. Though there is no limitation to invoke Article 226 of the Constitution of India, one shall invoke the

jurisdiction under Article 226 within a reasonable time. Nearly 3 years delay in invoking Article 226 of Constitution of India cannot be considered as reasonable period. This Court shall also take note of the prejudice that would be caused to the respondent.

9. The Hon'ble Apex Court in ***MRINMOY MAITY vs. CHHANDA KOLEY AND OTHERS***, reported in ***2024 SCC OnLine SC 551*** has held that the jurisdiction under Article 226 of Constitution of India shall be invoked within a reasonable time. Relevant paragraphs 9, 10, 11 and 12 read as follows:

> *"**9.** Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and latches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or latches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has*

allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. *The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.*

11. *For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and latches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and latches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court. This Court in the case of Tridip Kumar Dingal v. State of W.B., (2009) 1 SCC 768 has held to the following effect:*

> *"56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising*

discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhume matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide State of M.P. v. Bhailal Bhai, [AIR 1964 SC 1006 : (1964) 6 SCR 261], Moon Mills Ltd. v. Industrial Court, [AIR 1967 SC 1450] and Bhoop Singh v. Union of India, [(1992) 3 SCC 136 : (1992) 21 ATC 675 : (1992) 2 SCR 969]). This principle applies even in case of an infringement of fundamental right (vide Tilokchand Motichand v. H.B. Munshi, [(1969) 1 SCC 110], Durga Prashad v. Chief Controller of Imports & Exports, [(1969) 1 SCC 185] and Rabindranath Bose v. Union of India, [(1970) 1 SCC 84]).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose."

12. *It is apposite to take note of the dicta laid down by this Court in Karnataka Power Corporation Ltd. v.*

K. Thangappan, (2006) 4 SCC 322 whereunder it has been held that the High Court may refuse to exercise extraordinary jurisdiction if there is negligence or omissions on the part of the applicant to assert his right. It has been further held thereunder:

> *"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports, [(1969) 1 SCC 185 : AIR 1970 SC 769]. Of course, the discretion has to be exercised judicially and reasonably.*
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> *7. What was stated in this regard by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd, [[L.R.] 5 P.C. 221 : 22 WR 492] (PC at p. 239) was approved by this Court in Moon Mills Ltd. v. M.R. Meher, [AIR 1967 SC 1450] and Maharashtra SRTC v. Shri Balwant Regular Motor Service, [(1969) 1 SCR 808 : AIR 1969 SC 329]. Sir Barnes had stated:*
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> > *"Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an*

argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy."

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in Rabindranath Bose v. Union of India, [(1970) 1 SCC 84 : AIR 1970 SC 470] that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

9. It was stated in State of M.P. v. Nandlal Jaiswal, [(1986) 4 SCC 566 : AIR 1987 SC 251] that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause

> *confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."*

10. In the instant case, as we don't find any sufficient reason to condone the delay, we reject the writ petition on the ground of delay.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

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