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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ LPA 251/2026 & CM APPL. 23731/2026, CM APPL. 23732/2026,  
CM APPL. 23733/2026, CM APPL. 23734/2026  
UNION OF INDIA .....Appellant

Through: Mr. Puneet Dhawan, Sr. Panel  
Counsel for UOI with Mr. Kush  
Sharma, Adv.

versus

BRIJENDRA KUMAR SHARMA AND ANR .....Respondents  
Through: Respondent in-person.

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER**

% **13.04.2026**

1. This appeal has been filed assailing the impugned judgment dated 26<sup>th</sup> February 2026 passed by the Single Judge in **W.P.(C) 23584/2005**, by which condonation of delay in filing the restoration application and seeking restoration was rejected by the Single Judge.
2. The writ petition was filed by appellant assailing the *ex-parte* award dated 15<sup>th</sup> September 2005 passed by the *Industrial Tribunal cum Labour Court* in **I.D No.70/2003**, granting reinstatement to workman [*respondent herein*] along with full back wages and continuity of service.
3. The writ petition was initially dismissed for non-prosecution *vide* order dated 13<sup>th</sup> December 2010. Thereafter, it was restored to its original number *vide* order dated 1<sup>st</sup> November 2011, subject to payment of costs of Rs.25,000/- payable to respondent/workman.
4. Even thereafter, due to continued non-appearance on behalf of appellant/*Director General of Works, Central Public Works Department* (**'Department'**), the matter was once again dismissed in default by order



dated 13<sup>th</sup> March 2013.

5. Yet again, a restoration application was filed by appellant and was allowed by order dated 29<sup>th</sup> October 2014, subject to payment of cost of Rs.15,000/-. By the same order, the writ petition was made 'Rule' and the matter came to be listed thereafter before the Court on 16<sup>th</sup> January 2024.

6. On 16<sup>th</sup> January 2024, a Court Notice was issued to parties, returnable on the date fixed, and the matter was listed for final hearing, considering that it had been pending since 2005. The matter was again listed on 11<sup>th</sup> March 2024 and was adjourned to a subsequent date as no one had appeared on behalf of parties; however, no adverse orders were passed.

7. The matter was again listed on 27<sup>th</sup> May 2024, when order was passed dismissing the petition in default. Said order is extracted as under:

*“None appeared on behalf of the petitioner when the matter was called. None appeared on 11<sup>th</sup> March, 2024 and 16<sup>th</sup> January, 2024. It seems that the petitioner does not wish to pursue the matter any further.  
The petition is thus dismissed for non-prosecution”.*

8. Appellant moved an application seeking restoration along with condonation of delay of 395 days. It was stated in the application that the erstwhile counsel representing the Department was discontinued and, owing to this change, the Department was unable to effectively track the status and remained unrepresented when the matter was taken up by the Court.

9. It was further stated that appellant/Department became aware of the position only upon making inquiries with the erstwhile counsel regarding the status of the petition, and that the Department came to know about the dismissal order only when the concerned officer approached the Litigation Section of the Union of India at the Delhi High Court to engage a new



counsel.

10. The Single Judge examined the nature of the delay and whether it deserved to be condoned based on the grounds urged by appellant. Relying on *Section 5* of the Limitation Act 1963 [*“Limitation Act”*], and various decisions in *Shivamma v. Karnataka Housing Board* 2025 SCC OnLine SC 1969; *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*, (2012) 5 SCC 157; *Postmaster General v. Living Media India Ltd.* (2012) 3 SCC 563; *State (NCT of Delhi) v. Kamla Mehndiratta*, 2023 SCC OnLine Del 4771; *Rabi Shankar Sengupta v. ITDC* 2007:DHC:5731-DB, the Single Judge observed that “*no preferential or lenient treatment*” can be accorded to the State or its instrumentalities and the rigour of law applies equally to all. The only explanation offered, namely that the delay was due to the discontinuation of the erstwhile counsel and that the matter was not pursued was considered “*vague and sketchy*”. The Single Judge rightly noted that:

*“33.....petitioner should have been more vigilant at least after October 2014 when its petition was restored after second dismissal in default”.*

11. The Court has examined the impugned judgment, and has also heard counsel for appellant/Union of India, who reiterated the same set of submissions, namely that there was a change of counsel and, therefore, the matter could not be pursued after it came to be listed in 2014, having been in the “*Regular List*” since 2014.

12. However, this Court approves of the decision taken by the Single Judge in not allowing the condonation, for the following reasons:

- i) *Firstly*, the petition had been dismissed in default on two previous occasions and, on both occasions, it had been restored after payment



of costs.

- ii) *Secondly*, after the matter came up in 2024, not only was a Court Notice issued, but the matter was also adjourned on one occasion without any adverse orders being passed; even then, the Department was not represented. Therefore, it was the third instance in which it was dismissed for want of prosecution.
- iii) *Thirdly*, the excuse that the blame has been placed at the door of the erstwhile counsel is unacceptable, considering that the Union of India is represented by various counsels who are on the panel, and it is the duty of the Departments to pursue their matters diligently and not leave them in a lurch depending on the availability or representation of counsel.
- iv) *Fourthly*, the writ petition was filed in 2005 and had been dismissed in default thrice, in 2010, 2013 and again in 2024. It was reasonably expected of appellant/Department, if they were pursuing an issue of law as has been contended by counsel, that they would have been duly diligent in pursuing and tracking this matter. However, no such attempt was made and lapses were allowed to continue.

13. The Single Judge rightly noted that due to these defaults, respondent/workman is locked in a “*state of perpetual litigation*” and, despite an order of reinstatement with full back wages and consequential benefits, has been unable to enjoy the fruits of the order. Respondent appeared in-person and has also been heard.

14. Aside from the decisions noted by the Single Judge, reference may also be made to a recent decision of the Supreme Court in ***State of Odisha & Ors. v. Managing Committee of Namatara Girls’ High School***, 2026 SCC OnLine SC 191, wherein the Court holds that bureaucratic delay is not a



ground for condonation. Though, the matter relates to a Special Leave Petition [**SLP**] being dismissed as time-barred due to the inaction of the State being “*utterly lethargic, tardy and indolent*”, as observed by the Supreme Court, the principles would equally apply to the appeal herein.

15. In ***State of Odisha*** (*supra*), the matter arose from an order of the State Education Tribunal dated 13<sup>th</sup> December 2013 which was carried in appeal before the High Court of Orissa at Cuttack on 16<sup>th</sup> October 2015. The appeal was time-barred and, after a period of 8 years, the State of Orissa had not filed a certified copy of the impugned order. By order dated 26<sup>th</sup> April 2023, the High Court dismissed the appeal. The State of Orissa filed an application for recall with condonation of delay of 291 days. The application for condonation of delay was dismissed by the Court on 21<sup>st</sup> February 2025, against which an SLP was filed again with a delay of 123 days. For ease of reference, relevant paragraphs are extracted as under:

*“13. However, since there is a long line of decisions of this Court propounding the law that the expression ‘sufficient cause’ employed by the legislature in Section 5 of the Limitation Act, 1963 is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice and in view of the submission of Ms. Sanjana, we have considered it appropriate to consider the matter in some depth.*

*14. Almost four decades back, in **Collector, Land Acquisition, Anantnag v. Mst Katiji**, a coordinate Bench noting that the justifiably liberal approach which this Court has been adopting in matters instituted before it is not being followed by the courts lower in the hierarchy, mandated that a justice oriented approach is indeed called for when a ‘State’ seeks condonation of delay as distinguished from ‘a private party’.*

*15. Close on the heels of **Katiji** (*supra*), Hon'ble Justice M.N. Venkatachaliah speaking for the coordinate Bench*



in **G. Ramegowda v. Land Acquisition Officer** had referred to **Katiji** (supra) in paragraph 14 and quoted the following passage therefrom:

*“When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay ...*

*It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”*

*Immediately thereafter, in paragraphs 15 to 17, it was held as under:*

*15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.*

*16. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.*

*17. Therefore, in assessing what, in a particular case, constitutes “sufficient cause” for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the*



*judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have “a little play at the joints”. Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. In the opinion of the High Court, the conduct of the law officers of the Government placed the Government in a predicament and that it was one of those cases where the mala fides of the officers should not be imputed to Government. It relied upon and trusted its law officers. ...*

.....

***17. Indeed, one of us [Dipankar Datta] in Sheo Raj Singh v. Union of India authoring the judgment for a coordinate Bench adopted the view taken in Katiji (supra), Ramegowda (supra) and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was observed that a distinction ought to be drawn between an ‘explanation’ and an ‘excuse’ that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits in appeal over a discretionary order of the high court granting the prayer***



for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation has to be examined.

*18. However, what perhaps remained unnoticed in any of the decisions post **Katiji** (supra) and **Ramegowda** (supra) adopting a liberal approach is the exasperation and consequent lament expressed by none other than Hon'ble M.N. Venkatachaliah, CJI. in course of authoring a brief order in **Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay and admonishing officers of the "revenue" in not acting with promptitude.** This order was made within six years of the decision in **Ramegowda** (supra). We can do no better than quoting the same in its entirety hereunder:*

*1. We have heard Shri S.C. Manchanda, learned senior counsel for the Revenue.*

*2. This special leave petition filed on November 16, 1993 is delayed by 264 days. For quite some time in the past, this Court has been making observations as to the grave prejudice caused to public interest by appeals brought on behalf of the Government being lost on the point of limitation. Such observations have been made for over a few years in the past. But there seems to be no conspicuous improvement as is apparent in the present petition which is filed in November 1993. The explanation for the delay, had better be set out in petitioner's own words:*

*“(g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file. (h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993.”*



3. *This explanation is incapable of furnishing a judicially acceptable ground for condonation of delay. After the earlier observations of this Court made in several cases in the past, we hoped that the matters might improve. There seems to be no visible support for this optimism. There is a point beyond which even the courts cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference. Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the stereotyped affidavits making it susceptible to the criticism that the Revenue does not seem to attach any importance to the need for promptitude even where it affects its own interest.*

4. The application for condonation of delay is, accordingly, dismissed. The special leave petition is, therefore, dismissed as barred by time.

(emphasis ours)

**19. Reading *Ramegowda* (supra) and *Amateur Riders* (supra),** one after the other, leaves none in doubt that it did not take much time for this Court to lose hope. It is absolutely clear that the law was laid down in ***Ramegowda* (supra)**, following ***Katiji* (supra)**, with much optimism that matters would improve. Their Lordships, however, found no visible support for such optimism and the Court's patience having been tested to the extreme limit, held that there is a point beyond which even the courts cannot help a litigant even if the litigant



labouring under the shackles of bureaucratic indifference is the Government.

*20. We have found the State of Odisha to be utterly lethargic, tardy and indolent not only before the High Court but also before this Court. Notwithstanding that its appeal was dismissed as time-barred by the High Court, this Court has been approached by the State of Odisha four months after expiry of the period of limitation.*

*21. Condonation of delay cannot be claimed as a matter of right. It is entirely the discretion of the Court whether or not to condone delay. Despite all the latitude that is shown to a “State”, we are of the clear opinion that the cause sought to be shown here by the State of Odisha is not an explanation but a lame excuse. No case for exercise of discretion has been set up.”*

(emphasis added)

16. As noted by the Single Judge, the observations of the Supreme Court in *Shivamma* (*supra*) reiterate that condonation of delay requires a satisfactory explanation for the entire period of delay and that courts must not legitimize bureaucratic lethargy on the part of State authorities, particularly where such delay defeats the finality of litigation and prejudices a successful private litigant. Relevant paragraphs are reproduced hereunder:

*“115. However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of “sufficient cause” for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90-days, and the appeal is filed belatedly on the 100<sup>th</sup> day, then explanation has to be given for the entire 100-days.*

.....

*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.”*

(emphasis added)

17. Accordingly, in view of the repeated dismissals of the writ petition for non-prosecution, the absence of any satisfactory explanation for the inordinate delay of 395 days, and the settled legal position that bureaucratic lapses cannot constitute “sufficient cause” under Section 5 of the Limitation



Act, this Court finds no infirmity in the exercise of discretion by the Single Judge in declining condonation of delay and restoration of the petition. No ground is made out for interference in the present appeal.

18. The appeal, accordingly, stands dismissed.
19. Pending applications, if any, are rendered infructuous.
20. Order be uploaded on the website of this Court.

**DEVENDRA KUMAR UPADHYAYA, CJ**

**ANISH DAYAL, J**

**APRIL 13, 2026/MK/tk**