



2026:DHC:1677



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 05.12.2025
Pronounced on: 26.02.2026

+ W.P.(C) 23584/2005, CM.APPL. 52849/2025 (stay)
UOIPetitioner

Through: Mr. Puneet Dhawan, SPC for
UOI with Mr. Meet Nathani,
Exe. Engineer, Ghaziabad,
Division 1, CPWD

versus

BRIJENDRA KUMAR SHARMA & ANRRespondents

Through: In person.

CORAM:
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

CM.APPL. 50045-46/2025 (For condonation of delay of 365 days in filing restoration application along with application seeking restoration)

1. The present application is filed by the petitioner seeking restoration of W.P.(C) No. 23585/2005 (hereinafter, “the captioned writ petition”), which was dismissed for non-prosecution vide order



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dated 27.05.2024. Along with restoration application, the petitioner has also filed an application being CM No. 50046/2005, seeking condonation of 395 days' delay in filing the same.

2. The present Writ Petition was filed by the petitioner assailing the *ex parte* Award dated 15.09.2005 passed by the learned Industrial Tribunal, granting reinstatement to the respondent-workman along with full back wages and continuity of service.

3. The captioned Writ Petition was initially dismissed for non-prosecution *vide* order dated 13.12.2010. Thereafter, the petitioner-department succeeded in having the writ petition restored to its original number *vide* Order dated 01.11.2011, subject to payment of costs of Rs. 25,000/- payable to the respondent-workman.

4. Subsequently, owing to the continued non-appearance on behalf of the petitioner department, the matter was once again dismissed in default *vide* order dated 13.03.2013. The court also took note of the petitioner-department's callous approach in the conduct of the proceedings. The relevant portion is reproduced herein below-

"There is no appearance on behalf of the petitioner despite pass-over.

In the first call as well, none appeared for the



petitioner. Even earlier the writ petition had been dismissed in default on 13.12.2010. It appears that the petitioner is not interested in pursuing the matter with any seriousness.

Dismissed in default.

No application for restoration of the writ petition shall be entertained unless accompanied by proof of deposit of Costs of Rs. 15,000/- with the Juvenile Justice Account.”

5. Thereafter, subject to the payment of cost of Rs. 15,000/-, the petitioner secured restoration of the captioned writ petition to its original number vide Order dated 29.10.2014. By the same order, the writ petition was made ‘Rule’.

6. The matter accordingly came to be listed before Court on 16.01.2024. On that date, court notice was issued to the parties, returnable for the date fixed, and the matter was listed in the category of ‘Regular Matters’ for final hearing, considering that it had been pending since 2005. The relevant portion is reproduced herein below-

“No one appeared on behalf of the parties.

Issue Court notice to the parties, returnable on 11st March, 2024.

List the matter in the category of “Regular Matters”.



It is made clear that no further adjournment shall be granted on the next date of hearing as the matter is pending since 2005.”

7. Thereafter, the matter was listed on 11.03.2024, on which date it was simply adjourned to a subsequent date, as none appeared on behalf of the parties and no adverse orders were passed. Pursuant to that, the matter was again listed before this court on 27.05.2024, when an order of dismissal in default came to be passed for the third time, resulting in the dismissal of the petition with the following observations.

“None appeared on behalf of the petitioner when the matter was called. None appeared on 11th March, 2024 and 16th 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. Aggrieved by the dismissal, the petitioner has moved the present application seeking restoration of the writ petition along with an application seeking condonation of 395 days delay in filing the same.

9. Learned Counsel for the petitioner submits that the captioned writ petition was made ‘Rule’ vide Order dated 29.10.2014 and was



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thereafter listed for the first time on 16.01.2024. In the intervening period, however, the erstwhile counsel representing the petitioner-department was discontinued from its panel. Owing to this change in representation, the petitioner-department was unable to effectively track the status of the captioned writ petition. Consequently, no appearance was entered on behalf of the petitioner-department when the matter was taken up by the Court.

10. It is further submitted that although Court Notice was issued to the parties *vide* order dated 16.01.2024, no such court notice was received by the petitioner-department.

11. It is contended that the petitioner-department became aware of the position only upon making inquiries with the erstwhile counsel regarding the status of the writ petition, whereupon it was informed that the matter was not being pursued following his discontinuation from the panel. The petitioner-department came to know of the dismissal order only when the concerned officer approached the Litigation Section of the Union of India at the Delhi High Court and engaged new counsel to pursue the matter. Immediately thereafter, the present application seeking restoration of the captioned writ petition was filed.



12. It is further submitted that the writ petition raises significant questions of law with far reaching consequences that warrant adjudication on merits. Learned counsel for the petitioner emphasizes that procedural laws are intended to advance the cause of justice and not to defeat substantive rights of litigants.

13. Learned counsel further submits that the learned Industrial Tribunal committed a grave error in passing the impugned *ex parte* award dated 15.09.2005. It is contended the learned industrial tribunal received the reference on 25.06.2003, on said date, notice was issued and the respondent-workman was directed to file his statement of claim. The respondent-workman filed the statement of claim before the learned Tribunal on 15.09.2003, without supplying a copy thereof to the petitioner, which was impermissible. In this regard, reliance is placed upon Rule 10B of the Industrial Disputes (Central) Rules, 1957 and Order V Rule 2 of the Code of Civil Procedure, which mandate that a party filing a statement of claim must furnish a copy to the opposite party. It is further submitted that it was incumbent upon the learned Tribunal to ensure compliance with Sub-Rules (2) and (3) of Rule 10B of the Industrial Disputes (Central) Rules, 1957, including verification that a copy of the statement of claim had been duly served



upon the petitioner-department.

14. It is further stated that, despite the petitioner's letter dated 01.09.2003 addressed to the learned Tribunal, bringing to its notice that no copy of the statement of claim had been received and seeking appropriate directions to the respondent-workman, no such directions were issued. Instead, the learned Tribunal proceeded *ex parte* against the petitioner *vide* order dated 25.07.2005, which was also the date on which counsel for the petitioner entered appearance and filed his authority letter before the Tribunal for the first time.

15. Lastly, it is submitted that, as a matter of record, the petition had previously been restored on two occasions subject to payment of appropriate costs. It is therefore prayed that similar indulgence be granted to petitioner-department by way of one final, reasonable, and meaningful opportunity to contest the proceedings on merits.

16. Per contra, the respondent-workman, appearing in person, has vehemently opposed the present application for restoration.

17. The respondent-workman submits that the petitioner cannot be permitted to invoke the inherent powers of this Court under Section 151 of the Code of Civil Procedure for restoration of the captioned



writ petition, which has been dismissed in default on several occasions. This, it is contended, reflects a callous and imprudent approach on the part of the petitioner-department in pursuing the matter, and the application is, therefore, liable to be dismissed with exemplary costs. It is further submitted that this Court has already shown considerable indulgence on earlier two occasions by restoring the writ petition, albeit subject to payment of costs; however, such repeated defaults cannot be condoned indefinitely to the prejudice of the respondent, who has been diligently pursuing the proceedings.

18. It is next submitted that there is substantial delay in filing the present application also. No cogent or satisfactory explanation has been offered by the petitioner, except a plea of inadvertence on part of its erstwhile counsel in not pursuing the matter diligently. Such a plea, it is submitted, is insufficient to justify restoration of the petition as well as the delay in filing the application.

19. It is further submitted that it is a settled principle that the administrative lapses or lack of coordination between departments and their counsel cannot constitute "sufficient cause" for restoration

20. The respondent also urges that the writ petition was not



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dismissed on the first instance of default, but only after the petitioner had remained absent on several successive dates of hearing.

21. It is further submitted that the petitioner-department had not been pursuing the matter with due diligence and had continued to enjoy the benefit of the interim stay of the impugned order. It was only when the respondent-workman initiated execution proceedings before the learned Tribunal pursuant to the dismissal of the writ petition that the petitioner-department awoke from its slumber and filed the present application seeking restoration.

22. Additionally, it is submitted that the contention of the learned counsel for the petitioner regarding alleged non-compliance with the procedural requirements under Rule 10B of the Industrial Disputes (Central) Rules, 1957 and Order V Rule 2 of the Code of Civil Procedure pertains to the merits of the case. Such issues, it is argued, can only be considered at the stage of final hearing of the writ petition and not in the present restoration proceedings.

23. Lastly, reliance is placed on the settled principle that delay in seeking restoration, condonation, or other procedural relief cannot be condoned on sympathetic grounds alone. The applicant must provide a



cogent and *bona fide* explanation supported by credible explanation for the delay.

24. Heard. I have considered the submissions advanced by learned counsel for the petitioner as well as those made by the respondent-workman.

25. In order to consider the prayer for condonation of the delay of 395 days in filing the application for restoration of the petition, it is necessary to examine the nature of the delay and whether, in the facts and circumstances of the case, such delay deserves to be condoned on the grounds urged by the petitioner.

26. Section 5 of the Limitation Act, 1963 provides for extension of prescribed period for filing an application under any provision except Order XXI of the Civil Procedure Code, 1908 thereby giving powers to the Court to admit the application by condoning the delay after the prescribed period of limitation. The said provision is reproduced herein:

“Section 5. Extension of prescribed period in certain cases.- Any appeal or any application, other than an application under any of the provisions of Order XXI of the Civil Procedure Code, 1908 (5 of 1908), may be admitted after the prescribed period if



the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.”

27. At the outset, it is essential to reiterate the position of law settled by the Supreme Court in ***Shivamma (dead) by LRs v. Karnataka Housing Board & Others***, 2025 SCC OnLine SC 1969. The Court held that delay cannot be condoned on vague or superficial grounds; a party must first demonstrate sufficient cause by showing bona fide conduct and continuous diligence for the entire period. The Apex Court after considering the entire law/judgements on the point of condonation of delay, has held as under-

“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 100th day, then explanation has to be given for the entire 100-days.”



28. In the case of ***Shivamma*** (Supra), the Supreme Court held that while procedure is often described as the handmaid of justice, courts, particularly constitutional courts, cannot relax bars of limitation for a state agency or its instrumentality that has been negligent or indifferent, as such agencies are equally bound by the law of limitation. The relevant portion is reproduced herein under-

“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 Supplied)

29. In **Maniben Devraj Shah v. Municipal Corporation of Brihan**, (2012) 5 SCC 157, considering the expression ‘sufficient cause’ used in Section 5 of Limitation Act in the context of Municipal Corporation of Brihan, Mumbai, Supreme Court, inter alia, observed as under : -

“24. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may



condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.

25. In cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”

(emphasis supplied)

30. In ***Office of the Chief Post Master General v. Living Media India Limited***, (2012)3 SCC563, the Supreme Court, inter alia, held as under :

“27) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent



persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28.) Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

29) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. **The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters**



everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

(Emphasis Supplied)

31. A Coordinate bench of this court, in case titled as ***Deptt. of Health, Govt. of NCT of Delhi v. Kamala Mehndiratta & Ors.*** 2023 SCC Online Del 4771, has held that government departments are under special obligation to discharge their duties with diligence and commitment. It has further been observed that court ought not to accord differential treatment to government agencies while considering applications seeking Court’s indulgence, particularly in matters relating to condonation, restoration, and similar reliefs. The relevant portion is reproduced hereunder-

“22. Hence, from the foregoing discussion, it is clear that the Court must not treat the Government agencies differently while deciding the applications for condonation of delay and the Government is under special obligation to ensure that the duties enshrined



are properly performed.

23. It is common knowledge that many cases filed before this Court are barred by limitation, however, the courts adopt liberal approach while dealing with the cases filed, despite delay. Even though there is no threshold of the delay to be condoned, it is well settled that the courts generally condone the delay which is reasonable and where the party concerned show sufficient bona fide reasons for such delay.”

32. Further, the Hon’ble Division Bench of this Court, in **Rabi Shankar Senguptav. ITDC**, 2007:DHC:5731-DB, while dealing with a similar situation involving delay coupled with repeated defaults on the part of the litigant, reflective of a lack of diligence, dismissed the appeal challenging the order of dismissal in default. The relevant portion is reproduced herein below-

“4. Courts are liberal in condoning delays and defaults but in the present case, there have been repeated defaults not once but twice. Writ petition was dismissed in default on 24th July, 2002. Five years have since gone by. The first application for restoration was filed after delay of 511 days in January, 2004 but the said applications were also dismissed for non-prosecution. The second application for restoration was filed in August, 2007, after a gap of three and a half years. The learned Single Judge has specifically mentioned in the



order that except for vague submissions and inchoate averments, no sufficient ground for the delay and restoration has been made out. The explanation offered is rather sketchy and nothing has been stated about the conduct and efforts made by the appellant during this period. Though entire blame is put on the counsel but no action has been taken by the appellant against him. At least after May 2003, the appellant should have been more vigilant and should have followed the matter. It has been specifically recorded in the impugned order that the appellant is a Matriculate. He had participated in the enquiry proceedings and made representations to the Management against the termination order.

5. In these circumstances, we are not inclined to entertain the present appeal, which is dismissed.”

33. From the foregoing discussion, it is well-settled that no preferential or lenient treatment can be accorded to the state or its instrumentalities, and the rigour of the law applies equally to all. The only explanation offered by learned counsel for the petitioner-department in the present case is that, owing to the discontinuation of the erstwhile counsel from the panel of the petitioner-department, the matter was not pursued and the status of the case was not communicated to the petitioner-department. The explanation offered is rather vague and sketchy. The entire blame is tried to be put upon the



erstwhile counsel without stating anything about the conduct and efforts made by the petitioner-department during the period when the limitation started to begin till the time the application for restoration was filed. The petitioner should have been more vigilant at least after October 2014 when its petition was restored after second dismissal in default.

34. It is not in dispute, and a bare perusal of the record reveals, that the present writ petition had earlier been dismissed in default on two occasions. This is, therefore, the third instance in which the petition has been dismissed for want of prosecution. Although this Court had restored the captioned writ petition on the previous two occasions, the sole ground urged in the present application is that, due to the lapse on the part of the erstwhile counsel, the petitioner-department was unable to keep track of the proceedings and came to know of the dismissal only when inquiries were made by its concerned officers. It is settled law, as discussed hereinabove that even the government departments are under special obligation to pursue litigation with due diligence, like an ordinary citizen.

35. The record reflects a consistent pattern of a callous and casual approach on the part of the petitioner-department throughout the



proceedings of the captioned writ petition. The first dismissal in default occurred on 13.12.2010, when the petitioner department got the matter restored *vide* order dated 01.11.2011, subject to payment of cost of Rs. 25,000/-. The second dismissal in fault happened on 13.03.2013 and again the petition was restored *vide* order dated 29.10.2014, subject to payment of cost of Rs. 15,000/-. However, this is the third time when the matter was again dismissed in default on 27.05.2024, for which the present application is moved. Even after the petition was restored to its original number on two earlier occasions upon imposition of costs, the petitioner-department failed to prosecute the matter diligently and once again defaulted in appearance when the matter came to be listed before this Court.

36. These defaults from 13.12.2010 to 27.05.2024 leads the respondent to be in the state of perpetual litigation, who despite an order of reinstatement with full back wages and consequential benefits, being passed in his favour on 15.09.2003, was unable to enjoy the fruits of his decree.

37. Learned counsel for the petitioner has touched upon the merits of ex parte award alleging that despite a letter sent to the Court for getting a copy of statement of claim filed by the respondent-workman,



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no directions were passed nor a copy of claim was supplied and rather the petitioner was proceeded ex parte resulting in ex parte award being passed against the petitioner.

38. Although these aspects pertain to the merits of the case and not required to be looked into while deciding the restoration and condonation of delay application, yet in view of the submissions from both sides, they are necessary to be noted to know commitment on the part of the petitioner-department in prosecuting the matter since the initiation of the proceedings between the parties in the year 2003. This Court is unable to appreciate the purpose of addressing such a letter to the learned Tribunal in lieu of entering appearance and raising the grievance in accordance with law. Petitioner-department was proceeded ex parte on 15.04.2005 whereafter the ex parte award dated 15.05.2005 was passed against the petitioner department, which is impugned in the present writ petition. One thing is clear that even before the learned Tribunal, the petitioner department has not pursued the matter diligently, due to which ex parte award was passed against it.

39. Though, it is well settled that disputes ought, as far as possible, to be adjudicated on their merits and that the substantive rights of the



parties should not be defeated by adopting an unduly hyper-technical or rigid approach while deciding applications for restoration or for condonation of delay. However, where there is gross negligence, deliberate inaction, or absence of *bona fides*, as is evident in the present case, a liberal approach cannot be extended, even if when the party seeking such indulgence is the State or one of its instrumentalities. The State and its agencies cannot claim preferential treatment in matters relating to condonation of delay and are required to furnish a plausible and satisfactory explanation when approaching the Court for such relief. It is equally well settled that, in cases involving delay, the material consideration is not the length of the delay but the sufficiency and quality of the explanation offered. In absence of any such plausible and cogent reasons, no such relief could be granted to the applicant.

40. Clearly, the vague and inchoate grounds urged by the learned counsel for the petitioner do not make out sufficient cause for condoning the delay of 365 days in filing the restoration as well as for restoration of the Writ petition. Law cannot help those who are not vigilant and diligent in prosecuting their cases.

41. For the reasons stated hereinabove, this court finds no merit in



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the application seeking condonation of 365 days' delay as well as the application seeking restoration of the captioned writ petition and the same are hereby dismissed.

42. In view of the order passed hereinabove, all the pending applications also stand disposed of.

RENU BHATNAGAR, J

FEBRUARY 26, 2026/*neha/Kz*