



2026:CGHC:21295-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 400 of 2026

1 - State Of Chhattisgarh Through Its Secretary, Urban Administration And Development Department, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh.

2 - Additional Secretary C.G. State Nagariya Prashasan And Vikas Department Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh.

3 - Director Urban Administration And Development Department Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh.

4 - The Collector Raigarh District Raigarh, Chhattisgarh.

... Appellant(s)

versus

1 - Mamta Choudhary W/o Shri Surendra Choudhary Aged About 60 Years Presently Posted As In-Charge Chief Municipal Officer, Nagar Panchayat, Lailunga, District Raigarh, Chhattisgarh.

2 - Chandra Prakash Shrivastava S/o Late Shri Chandra Kishore Shrivastava Aged About 51 Years Currently Posted As Community Coordinator At Municipal Corporation Bilaspur, Chhattisgarh. (Respondent No. 6 In The Original Writ Petition)

... Respondent(s)

For Appellant(s) : Mr. Shashank Thakur, Dy. Advocate General.

For Respondent(s) : Mr. Awadh Tripathi, and Mr. Raj Shengale,
Advocate.



Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge
Order on Board

Per Ramesh Sinha, C.J.

07/05/2026

1. Heard Mr. Shashank Thakur, Dy. Advocate General, appearing for the appellants on I.A. No. 1 of 2026, which is an application for condonation of delay of **283** days in preferring the instant appeal. Also heard Mr. Awadh Tripathi, and Mr. Raj Shengale, learned counsel appearing for the respective respondents.
2. The appellants/State have filed the instant writ appeal against the order dated 08.05.2025 passed by the learned Single Judge in WP(S) No. 5182/2024 (***Mamta Choudhary vs. State of Chhattisgarh and others***), whereby the learned Single Judge has allowed the said writ petition along with WP(S) No. 1625/2024 and WP(S) No. 6781/2024, and quashed the recovery order dated 27.04.2022, transfer order dated 27.04.2024, as well as suspension order dated 04.10.2021, holding that the writ petitioner was not afforded proper opportunity of hearing.
3. Learned Deputy Advocate General appearing for the appellants/State submits that the present writ appeal has been preferred by the appellants/State against the order dated 08.05.2025 passed in WPS No. 5182/2024 along with WPS No. 1625/2024 and WPS No. 6781/2024, by the Hon'ble Single Bench of this Court. He would further submit that the State is a multi-functioning body and



it has to follow the rules of obtaining sanction etc. for filing an appeal, which took considerable time due to administrative procedures and multiple levels of approval. He also submits that the appellants have a strong case on merits, therefore, the delay if not condoned, would result in grave miscarriage of justice.

4. It has been further contended that the State, after obtaining necessary documents and information with respect to the case, some delay was occurred due to fulfillment of various departmental formalities and working of the Government machinery, because the State Government is a multi functioning body, hence, at times the fulfillment of departmental formalities takes unexpected long time. Therefore, in some cases the State is prevented from filing the case within the prescribed period of limitation, which is *bona fide* and not deliberate. The instant appeal is, therefore, being filed after a delay of 283 days from the prescribed period of limitation. Reliance has been placed upon the judgment rendered by Hon'ble Supreme Court in the matter of **"State of Haryana v. Chandra Mani and others"** (1996) 3 SCC 132, to buttress his submissions. As such, the learned State counsel prays that the delay of 283 days in preferring the petition may be condoned.
5. Learned counsel for the respective respondents submits that the writ appeal is barred by delay and laches and further there is no cogent reason or explanation has been given in the delay and



laches application filed for condonation of delay. Hence, the appeal is not liable to be entertained.

6. On a pointed query being made to the learned for the appellants as to why they have approached this Court against the impugned order dated 08.05.2025, after an inordinate delay of 283 days, he has not offered any plausible explanation or any cogent reason for delay in filing the writ appeal.
7. The question for determination before this Court, is whether the provisions of Section 5 of the Limitation Act, 1908 (i.e. Act 9 of 1908 i.e. the old Limitation Act) would apply to an application for condonation of delay.
8. The Hon'ble Supreme Court in the matter of **"Union of India and others v. Tarsem Singh"** (2008) 8 SCC 652 summarized the settled principles in the following manner:-

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced,



if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion,etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

9. The Supreme Court in the matter of “**C. Jacob v. Director of Geology and Mining and others**” (2008) 10 SCC 115, having found that the employee suddenly brought up a challenge to the order of termination of his services after 20 years and claimed all consequential benefits, held that the relief sought for was inadmissible. The legal position in this regard was laid out in the



following terms:-

“10. Every representation of the Government for relief, may not be applied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.

11. When a decision is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do so may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of “acknowledgement of a jural relationship” to give rise to a fresh cause of action.



12. When a government abandons service to take alternative employment or to attend to personal affairs, and does not bother to send any letter seeking leave or letter of resignation or letter of voluntary retirement, and the records do not show that he is treated as being in service, he cannot after two decades, represent that he should be taken back to duty. Nor can such employee be treated as having continued in service, thereby deeming the entire period as qualifying service for the purpose of pension. That will be a travesty of justice.

13. Where an employee unauthorisedly absents himself and suddenly appears after 20 years and demands that he should be taken back and approaches the court, the department naturally will not or may not have any record relating to the employee at that distance of time. In such cases, when the employer fails to produce the records of the enquiry and the order of dismissal/removal, court cannot draw an adverse inference against the employer for not producing records, nor direct reinstatement with back wages for 20 years, ignoring the cessation of service or the lucrative alternative employment of the employee. Misplaced sympathy in such matters will encourage discipline, lead to unjust enrichment of the employee at fault and result in drain of public exchequer. Many a time there is also no



application of mind as to the extent of financial burden, as a result of a routine order for back wages.”

10. In the light of the principles of law laid down by the Hon’ble Supreme Court in the aforementioned judgments (supra), and upon due consideration of the grounds urged in I.A. No. 1, we find that the delay of 283 days in preferring the writ appeal has not been satisfactorily explained with any cogent or plausible reason. The appellants have failed to demonstrate sufficient cause so as to justify condonation of such delay. Therefore, no ground is made out to exercise our discretion in favour of the appellants for condoning the delay.
11. Consequently, I.A. No. 1 seeking condonation of delay is hereby **rejected**. As a natural corollary thereto, the writ appeal also stands **dismissed**.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Alok