



2026:CGHC:4044-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 53 of 2026

1 - State of Chhattisgarh Through its Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur (C.G.)

2 - The Engineer-in-Chief, Public Works Department, Nirman Bhawan, Atal Nagar, Nava Raipur, District Raipur (C.G.)

3 - The Sub Divisional Officer, State Bridge Construction, Public Works Department, Ambikapur, District Surguja (C.G.)

... Petitioners

versus

1 - Rasid Mohammed S/o Late Shri Sharif Mohammed, Aged About 58 Years, R/o Gandhi Chowk, Behind Gulab Colony, Ambikapur, Police Station Gandhi Nagar, District Surguja (C.G.)

... Respondents

(Cause title taken from Case Information System)

For Appellant/State	:	Mr. Praveen Das, Addl. Advocate General.
For Respondent	:	Mr. S.P. Kale and Mr. Abhishek Singh, Advocates

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, C.J.

23.01.2026

1. Heard Mr. Praveen Das, learned Addl. Advocate General appearing for the appellant on I.A. No. 02, which is an application for condonation of delay of **263** days in preferring the instant appeal. Also heard Mr. S.P. Kale and Mr. Abhishek Singh, learned counsel for the respondent.

2. The appellant has filed this writ appeal against an order dated 04.02.2025, passed by the Hon'ble Single Judge, in WPS No. 966 of 2025 (**Rasid Mohammed v. State of Chhattisgarh and others**), by which the learned Single Judge has disposed of the writ petition filed by the writ petitioner with the following observations and directions in para 7 to 12 that :-
 - “7. This Court has passed an order in case no. WP(S) No.2953/2020 on dated 05/08/2020, in which Hon'ble Court has passed an order in similar case and directed to decide representation in respect of regularization of service of petitioner.
 8. Though the petitioner was terminated and award of reinstatement was passed in his favour by the Labour Court vide order dated 31.10.2022 with the legal consequence that the petitioner shall be deemed to be in service from the initial date of appointment in the year 1990.
 9. If the case of the petitioner is considered treating his initial date of appointment as in the year 1990, he would be entitled to be considered for regularization under circular dated 05/03/2008 issued for consideration of cases of regularization pursuant to direction of the Supreme Court in the case of **Uma Devi**¹ (supra) for consideration of cases of those, who have completed 20 years of service.

1 Secretary, State of Karnataka and others v. Uma Devi (3) and others, (2006) 4 SCC 1

10. After going through the records and orders passed by the Labour Court, it is quite clear that the effect of the order would be that the petitioner shall be deemed to be in service without any break. This would entitle the petitioner for due consideration for regularization under circular dated 05/03/2008. It is ordered accordingly.
 11. Let the case of the petitioner be considered by a duly constituted Committee as per policy dated 05/03/2008 and a decision be taken within an outer limit of three months from the date of receipt of copy of this order.
 12. Accordingly, this petition stands **disposed of** with aforesaid observations and directions.”
3. Learned Additional Advocate General appearing for the appellant/ State submits that the present writ appeal has been preferred by the appellant/State against the order dated 04.02.2025 passed in WPS No. 966 of 2025, 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 appellant has 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 263 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 263 days in preferring the appeal may be condoned.

5. Learned counsel appearing for the respondent submits that the writ appeal is barred by delay and laches and further there 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 appellant as to why they have approached this Court against the impugned order dated 04.02.2025, after an inordinate delay of 263 days, the appellant 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.02, we find that the delay of 263 days in preferring the writ appeal has not been satisfactorily explained with any cogent or plausible reason. The appellant has 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 appellant for

condoning the delay.

11. Consequently, I.A. No.02 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