



**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWPOA No. 6532 of 2019

Decided on: 27.11.2025

Tarsem Singh and others ...Petitioners

Versus

State of Himachal Pradesh and others ...Respondents

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting? Yes.*

For the petitioners: Mr. Adarsh K. Vashista, Advocate.

For the respondents: Mr. Amit Kumar Chaudhary,
Deputy Advocate General, for
respondents- State.

Ranjan Sharma, Judge

Petitioners, Tarsem Singh and 29 others had instituted an Original Application No. 1983 of 2019, which stood transferred to the State Administrative Tribunal and upon its abolition the same stands transferred to this Court as *CWPOA No. 6532 of 2019* seeking the following reliefs:-

- (i) that the impugned Annexure A-4, dated 16.01.2019, whereby Respondent No.2 has rejected the representation made by the Applicants may kindly

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*



be quashed and set-aside.

- (ii). That the Respondents may kindly be directed to treat applicants as regular appointees from the date of their initial appointment i.e. w.e.f. year 1999 alongwith all consequential benefits including seniority and arrears of pay and allowances alongwith due and admissible interest, in the interest of justice.

FACTUAL MATRIX:

2. Grievance as set up is that the petitioners being eligible for Class-IV posts in the respondent-department were sponsored by the Employment Exchanges of the State for recruitment as Class-IV employees against sanctioned posts and pursuant to initiation of selection process they participated in the interview held on 07.04.1999. It is averred that though the petitioners had a right to be considered for regular appointment but the respondent-department appointed the petitioners as Class-IV on daily wage basis on 05.05.1999 [Annexure A-1 in case of petitioner No. 1 Tarsem Singh]. It is averred that pursuant to appointment of the petitioners as Class-IV on daily



wage basis on 05.05.1999 the petitioners joined as daily wage Class-IV employee in the respondent-department. It is averred that petitioners continued to serve as daily waged Class-IV from the date of their initial joining in May 1999 and in pursuance to the letter issued by Principal Secretary [Ayurveda] to Government of Himachal Pradesh dated 05.02.2009 and on the recommendations made by Screening Committee on 16.02.2009 [Annexure A-2 Colly] their services were regularized by appointing them as Class-IV, in pay scale of Rs.2520-4140 with immediate effect. It is averred that after regularization on 16.02.2009, the petitioners accepted their regular appointment and continued to work in the respondent department. It is averred that the petitioners submitted a representation [undated Annexure A-3 at page 27 of the paper book] requesting that once the selection process was initiated for appointing the petitioners as Class-IV on regular basis, then, the petitioners could not have been appointed as Class-IV on daily wage basis on



05.05.1999 [Annexure A-1]. This representation was rejected by Director Ayurveda on 16.01.2019 [Annexure A-4], on the ground that 150 posts of daily wage Class-IV were filled by respondent-department on the basis of the approval of the State Government. Rejection order further indicates that the name of the petitioners were sponsored by the Employment Exchanges and accordingly they were engaged as daily wage Class-IV in the respondent-department. Rejection order further indicates that the interviews were conducted by the department on 07.04.1999 for recruitment as daily wage Class-IV posts and not for regular Class-IV posts. Rejection order further indicates that since the petitioners were appointed as daily waged in the year 1999 and have completed requisite service as per the regularization policy and the petitioners were regularized in February, 2009, therefore, the petitioners cannot turn around and claim regular appointment from the date they were initially appointed as Class-IV. It is in this background, that the Rejection order dated 16.01.2019



[Annexure A-4], is assailed in the instant petition.

**STAND OF RESPONDENT-STATE AUTHORITIES
IN REPLY-AFFIDAVIT:**

3. Pursuant to issuance of notice on 29.05.1999, the State Authorities have filed the Reply-Affidavit dated 04.07.2019 of Director Ayurveda, Himachal Pradesh.

3(i). Para 1 of Reply-Affidavit, specifically and vehemently denied that selection was initiated for making recruitment on regular basis. Reply-Affidavit indicates that the interview letters were issued specifically revealing that the selection was to be made on daily wage basis. Reply-Affidavit indicates that pursuant to the selection/interview held on 07.04.1999, the petitioners were selected/appointed as Class-IV employees on daily wage basis on 05.05.1999 [Annexure A-1] and they accepted their regular appointment without any protest at the relevant time.

3(ii). Para 2 of Reply-Affidavit indicates that after having accepted the daily wage appointment as Class-IV on 05.05.1999, the petitioners continued



in service and were regularized as Class-IV in 2009 in accordance with the Government Policy. Para 6(ii) of the Reply-Affidavit vehemently states that the *counselling/interview was held for daily wage Class-IV and was not for regular Class-IV*. So far as the claim of the petitioners regarding mid-wives, ward-boys and cooks, etc. are concerned, the respondents have stated that the post of mid-wives, ward-boys and cooks were created on regular basis and their selection-appointment was also made on regular basis whereas in case of the petitioners, the Government had created Class-IV daily wage posts against which the petitioners were appointed on daily wage basis. Operative part of the Reply-Affidavit reads as under:-

6(ii). That in reply to this para it is submitted that **in the year 1999 posts of daily wage Class-IV were advertised by the department for filling up the posts on daily wage basis** through Employment Exchange as per the instructions prevailing at that point of time. Accordingly, the candidates whose names were sponsored by the Employment Exchange were **called for the interview which also including the applicants and were engaged as**



Class-IV in the department on fixed wages of Rs.51/- per day which was as per the rules and instructions issued by the Government for daily wagers from time to time. **The counselling/interview was held for daily wage Class-IV and not for any regular post of Class-IV** hence the contention of the applicants for appointment against the regular post of Class-IV is not at all tenable. However, the posts of mid-wives, ward boys and cooks, etc. were created on regular basis **whereas the posts of Class-IV were created on daily wage basis and as such they were appointed on daily wage basis.**

6(ii). That in reply to this para it is submitted that the policy to regularize the services of daily wage Class-IV was introduced in the department in the year 2009 and **accordingly the services of the eligible incumbents were regularized in the year 2009** itself.

6(v) & (vi). That in reply to these paras it is submitted that **nature of the appointments of the applicants has not been changed at any stage.** The applicants are putting up forth false and frivolous contentions which are totally baseless to justify their claim. As a matter of fact, the **appointment has been made purely on daily wage basis at fixed rate of Rs.51/- per day which is clearly mentioned in the appointment letters which the applicants accepted without** any protest at that point of time. However, the services of the applicants has been regularized as per the policy of regularization which was



introduced in the department in the year 2009. Hence, the **claim of the applicants for any arrears, consequential benefits is not at all sustainable** in eyes of law.

6(vii). That the contents of this para so far pertaining to record are not denied. However, it is submitted that the **representation of the applicant was devoid of any merits and hence was rejected.** As a matter of fact the appointment of the applicants were made on daily wage basis as per the advertisement and following the due procedure applicable at that point of time. The interviews/counselling was held for incumbents whose name were sponsored by the concerned Employment Exchanges for the post of Class-IV on daily wage basis. **It has never been mentioned at any stage that the process is being carried on against any regular post.** This fact clearly finds mention in the appointment letter of the incumbents Annexure A-1 of the Q.A.

In above background, the State Authorities have prayed for the dismissal of the writ petition.

NO REBUTTAL BY PETITIONERS:

4. Petitioners chose not to file any rebuttal-rejoinder to the Reply-Affidavit filed by the State Authorities in instant proceedings.



5. Heard Mr. Adarsh K. Vashista, Learned Counsel for the petitioners and Mr. Amit Kumar Chaudhary, Deputy Advocate General, for respondents- No. 1 to 5 [State].

ANALYSIS:

6. Taking into account the entirety of the facts and circumstances and the material on record, this Court is of the considered view, that the Rejection Order dated 16.01.2019 [Annexure A-4], disallowing the claim of the petitioners for treating them as regular Class-IV employees from the date they were appointed as Class-IV on daily wage basis w.e.f. May, 1999 with all service benefits is not tenable, *for the following reasons:*

PETITIONERS APPOINTED AGAINST SANCTIONED DAILY-WAGE POSTS:

6(i). In para 6(ii) of Reply-Affidavit, the categorical stand of the State Authorities is that the State Government created the Class-IV posts on daily wage basis. It is borne out that after the creation of these posts and the approval granted by the



Government, the selection process was initiated and the Interviews were held on 07.04.1999 for filling up Class-IV posts on daily wage basis. Pursuant to interview, the petitioners were appointed as Class-IV employees, on daily wage basis, on 05.05.1999 [Annexure A-1].

6(ii). The State Authorities have taken a specific stand in Reply-Affidavit that the State Authorities created Class-IV daily wage posts and the State Authorities accorded approval for filling these daily waged posts after due selection [Interviews held on 07.04.1999] and the petitioners were selected and appointed and they joined as such in May, 1999 also. Once the Class-IV posts against which the petitioners were selected/appointed were created for being filled on daily wages at fixed daily wages as prescribed from time to time, therefore, this Court cannot accede to the prayer that the petitioners were erroneously appointed on daily wage basis. Petitioners have not controverted the stand of State



Authorities taken in the Reply-Affidavit. Learned State Counsel from the records establishes that the State Government had issued a notification on 22.02.1999 creating 107 Class-IV Daily Waged Posts and after due approval these posts were filled up on daily wage basis. Nothing has been placed on record by the petitioners to show that the selection as Class-IV was not against daily wage posts but were against regular Class-IV posts in the department. Once the State Authorities have taken a conscious decision which is borne out from the Reply-Affidavit and the notification dated 22.02.1999 [supra] to create Class-IV Daily Waged Posts and to fill these daily waged posts, then this Court cannot accede to the prayer of the petitioners that they deserve to be appointed as Class-IV on regular basis instead of having been appointed as Class-IV on Daily Wage Basis. Even conscious policy decision taken by the State Authorities, for creating Class-IV Daily Waged Posts and in filling these on daily wage basis, as referred



to above, has not been assailed by the petitioners.

Said decision of 1999 having attained finality cannot be permitted to be questioned or unsettled after 20 years in instant proceedings.

**ACCEPTANCE OF APPOINTMENT AS CLASS-IV
DAILY WAGE DISENTITLES PETITIONERS FOR
CHANGE IN STATUS FOR CLAIMING REGULAR
APPOINTMENT:**

7. Perusal of the material on record indicates that as per the Reply-Affidavit the respondents-State Authorities have created the Class-IV posts on daily wage basis. After creation of these posts, the State Authorities granted approval for filling up of these Class-IV daily wage posts, by calling for names from Employment Exchanges, wherein the names of the petitioners and others were sponsored. Petitioners and others were made to undergo the interview for Class-IV daily wage posts on 07.04.1999. Based on the comparative assessment/ merit as per the norms the Selection Committee recommended and appointed the petitioners as daily wage Class-IV incumbents on 05.05.1999 [Annexure A-1]. Petitioners



joined their daily wage appointment on the basis of orders dated 05.05.1999 [Annexure A-1] in the month of May, 1999 itself. At the time of joining their daily wage appointment in May, 1999 the petitioners accepted their appointment as Class-IV daily wage basis without any demur. Even, thereafter petitioners remained silent from May, 1999 till February 2009, for 10 years. Nothing has been placed on record to assert and establish that the petitioners had raised any claim for seeking change in appointment from daily wage Class-IV to regular Class-IV posts, either during the selection process or during their daily waged service. Having accepted the daily wage appointment from 1999 till February 2009, the acquiescence on the part of the petitioners is sufficient to draw inference of acceptability of their appointment. In view of principle of acquiescence, the petitioners have neither any locus nor any right to valid claim to seek change in appointment from daily wage Class-IV at this stage after 20 years. In



these circumstances, the claim of the petitioners for treating them as Class-IV on regular basis from the date of initial appointment as Class-IV on daily wage basis made in May, 1999 does not appeal to rationale and logic and is also not tenable in view of the principle of acquiescence, delay and laches.

ACCEPTING REGULAR APPOINTMENT AS CLASS-IV WITH IMMEDIATE EFFECT DISENTITLES PETITIONERS FOR RELIEF:

8. Material on record indicates that petitioners were appointed as daily wage basis on 05.05.1999 [Annexure A-1] and they joined as such in May, 1999 and they worked in the capacity for 10 years till 16.02.2009. In accordance with the applicable regularization policy, the petitioners were regularized as Class-IV in the pay scale of Rs.2520-4140 with immediate effect and the petitioners accepted their regular prospective appointment. The petitioners having acquiesced and accepted their regular appointment with immediate effect have neither any right nor any vested claim to seek the benefit



of retrospective regularization from May 1999 from the date they were appointed as Class-IV on daily wage basis. Nothing has been placed on record that after having accepted their prospective regular appointment on 16.02.2009, the petitioners had either submitted a claim seeking retrospective benefits or regular appointment till filing of a representation i.e. Annexure A-3. Even reading of Annexure A-3 and Annexure A-4 collectively suggest that representation so made belatedly vide Annexure A-3 was rejected by the State Authorities on 16.01.2019 [Annexure A-4]. Thus, the inaction, negligence and slackness on the part of petitioners in sleeping over the matter for 9 years and thereafter in submitting a representation belatedly which was responded to rejected on 16.01.2019 [Annexure A-4], leads to an inference of acceptability of prospective regular appointment by the petitioners coupled with the acquiescence in giving up their rights, disentitling the petitioners, for any relief.



DELAY AND LACHES:

9. While dealing with the issue as to whether mere filing of representation will not give any fresh cause of action and the restriction of limitation or delay and laches cannot be obliterated in service matters as outlined by the Hon'ble Supreme Court in **Union of India and others versus C.Girija and others, (2019) 15 SCC 633**, in the following terms:

17. This Court again in the case of Union of India and Others Vs. M.K. Sarkar, (2010) 2 SCC 59 on belated representation laid down following, which is extracted below:-

“15. When a belated representation in regard to a “stale” or “dead” issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the “dead” issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court’s direction. Neither a court’s direction to consider a representation issued without



examining the merits, **nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.**”

18. Again, this Court in **State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari** and Others, (2013) 12 SCC 179 had occasion to consider question of delay in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance does not give rise to a fresh following was laid down:-

“19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time.

23. In **State of T.N. v. Seshachalam**, (2007) 10 SCC 137, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: (SCC p. 145, para 16)

“16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant



deserves consideration. **Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others.** Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

19. This Court referring to an earlier judgment in **P.S. Sadasivaswamy Vs. State of Tamil Nadu**, (1975) 1 SCC 152 noticed that a person aggrieved by an order of promoting a junior over his head should approach the **Court at least within six months or at the most a year** of such promotion. In Paragraph No. 26 and 28, following was laid down:-

“26. Presently, sitting in a time machine, we may refer to a two-Judge Bench decision in P.S. Sadasivaswamy v. State of T.N., (1975) 1 SCC 152, wherein it has been laid down that: (SCC p. 154, para 2)

“2. ... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the courts to exercise their powers under Article 226 nor is it that there can never be a case where the courts cannot interfere in a matter after the passage of a



certain length of time. **But it would be a sound and wise exercise of discretion for the courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.”**

28. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. **But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court.”**

20. On the preposition as noticed above, it is clear that the **claim of the applicant for inclusion of her name in the panel, which was issued on 09.01.2001 and for the first time was raked up by her, by filing representation on 25.09.2007, i.e., after more than 06 and half years. The claim of inclusion in the panel had become stale by that time and filing of representation will not give any fresh cause of action. Thus, mere**



fact that representation was replied by Railways on 27.12.2007, a stale claim shall not become a live claim.

Both Tribunal and High Court did not advert to this important aspect of the matter. It is further to be noted from the material on record that after declaration of panel on 09.01.2001, there were further selection under 30% promotion by LDCE quota, in which the applicant participated. In selection held in 2005 she participated and was declared unsuccessful. With regard to her non-inclusion in panel in 2005 selection, she also filed O.A. No. 629 of 2006 before the Tribunal, which was dismissed. After participating in subsequent selections under 30% quota and being declared unsuccessful, **by mere filing representation on 27.09.2007 with regard to selection made in 2001, the delay and laches shall not be wiped out.**

9(i). Belated service related claim where a remedy is sought by way of writ petition and in a case where remedy is sought by way of an application under the Administrative Tribunals Act is liable to be rejected on the ground of delay-laches or limitation [as the case may be] where a claim had become stale and the tacit or passive acceptance and consent to an act is borne out and



where a right though was not exercised by a long time leaving it to become non-existent and where inaction or negligence of a person had abandoned his right either expressly or by implication from his conduct; virtually destroys the right of a person as mandated by Hon'ble Supreme Court in **Bichitrananda Behera versus State of Orissa and others (2023) 18 SCC 420**, in the following terms:-

26. On an overall circumspection, thus, in the present case the Respondent No.5 should have been non-suited on the ground of delay and laches, which especially in service matters, has been held consistently to be vital, juxtaposed with the sign of acquiescence. To the mix, we add that the State has supported the factual circumstances concerning the appointment of the appellant, his continuance in service as also the Respondent No.5 having worked during the said period in another school viz. the Sri Thakur Nigamananda High School, Terundia. Notably, the Respondent No.5 does not, from the record before us, appear to have approached the authorities in the interregnum.
27. Profitably, we may reproduce relevant passages from certain decisions of this



Court:

28. Union of India v **Tarsem Singh**, (2008) 8 SCC 648:

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 refixation 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.”

(emphasis supplied)

29. Union of India v **N Murugesan**, (2022) 2 SCC 25:

"Delay, laches and acquiescence

20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of



practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

Laches

21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while **causing prejudice to the other party. It is neglect on the part of a party to do an act** which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the **length of the delay and the nature of acts done during the interval**. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on



equity is not expected to be allowed to avail a remedy.

23. A defence of laches can only be allowed when there is no statutory bar. The **question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice.** The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

Acquiescence

24. We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.

25. **Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act.** In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of



taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. **When acquiescence is followed by delay, it may become laches.** Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.”

(emphasis supplied)

30. State Bank of India v **M J James**, (2022)
2 SCC 301:

"36. What is a reasonable time is not to be put in a straitjacket formula or judicially codified in the form of days, etc. as it depends upon the facts and circumstances of each case. A right not exercised for a long time is non-existent. Doctrine of delay and laches as well as acquiescence are applied to non-suit the litigants who approach the court/appellate authorities belatedly without any justifiable explanation for bringing action after



unreasonable delay. In the present case, challenge to the order of dismissal from service by way of appeal was after four years and five months, which is certainly highly belated and beyond justifiable time. Without satisfactory explanation justifying the delay, it is difficult to hold that the appeal was preferred within a reasonable time. Pertinently, the challenge was primarily on the ground that the respondent was not allowed to be represented by a representative of his choice. The respondent knew that even if he were to succeed on this ground, as has happened in the writ proceedings, fresh inquiry would not be prohibited as finality is not attached unless there is a legal or statutory bar, an aspect which has been also noticed in the impugned judgment. This is highlighted to show the prejudice caused to the appellants by the delayed challenge. We would, subsequently, examine the question of acquiescence and its judicial effect in the context of the present case.

38. In **Ram Chand** v. Union of India [Ram Chand v. Union of India, (1994) 1 SCC 44] and State of U.P. v. Manohar [State of U.P. v. Manohar, (2005) 2 SCC 126] this Court observed that if the statutory authority has not performed its duty within a reasonable time, it cannot justify the same by taking the plea



that the person who has been deprived of his rights has not approached the appropriate forum for relief. If a statutory authority does not pass any orders and thereby fails to comply with the statutory mandate within reasonable time, they normally should not be permitted to take the defence of laches and delay. If at all, in such cases, the delay furnishes a cause of action, which in some cases as elucidated in *Union of India v. Tarsem Singh* [*Union of India v. Tarsem Singh*, (2008) 8 SCC 648 : (2008) 2 SCC (L&S) 765] may be continuing cause of action. The State being a virtuous litigant should meet the genuine claims and not deny them for want of action on their part. However, this general principle would not apply when, on consideration of the facts, the court concludes that the respondent had abandoned his rights, which may be either express or implied from his conduct. Abandonment implies intentional act to acknowledge, as has been held in para 6 of *Motilal Padampat Sugar Mills Co. Ltd. v. State of U.P.* (1979) 2 SCC 409. Applying this principle of acquiescence to the precept of delay and laches, this Court in *U.P. Jal Nigam v. Jaswant Singh*, (2006) 11 SCC 464 after referring to several judgments, has accepted the following elucidation in Halsbury's Laws of England : (*Jaswant Singh case* [*U.P. Jal Nigam v.*



Jaswant Singh, (2006) 11 SCC 464
paras 12- 13)

“12. The statement of law has also been summarised in Halsbury's Laws of England, Para 911, p. 395 as follows:

In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

(i) acquiescence on the claimant's part; and

(ii) any change of position that has occurred on the defendant's part.

Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.

13. In view of the statement of law as summarised above, the respondents are guilty since the



respondents have acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussions on the financial management of the Nigam. Why should the court come to the rescue of such persons when they themselves are guilty of waiver and acquiescence?”



39. Before proceeding further, it is important to clarify distinction between “acquiescence” and “delay and laches”. **Doctrine of acquiescence is an equitable doctrine which applies when a party having a right stands by and sees another dealing in a manner inconsistent with that right, while the act is in progress and after violation is completed, which conduct reflects his assent or accord. He cannot afterwards complain.** [Prabhakar v. Sericulture Deptt., (2015) 15 SCC 1 : (2016). Also, see Gobinda Ramanuj Das Mohanta v. Ram Charan Das, 1925 SCC OnLine Cal 30 : AIR 1925 Cal 1107] In literal sense, the term acquiescence means silent assent, tacit consent, concurrence, or acceptance, [See Vidyavathi Kapoor Trust v. CIT, 1991 SCC OnLine Kar 331 : (1992) 194 ITR 584] which denotes conduct that is evidence of an intention of a party to abandon an equitable right and also to denote conduct from which another party will be justified in inferring such an intention. [See Krishan Dev v. Ram Piari, 1964 SCC OnLine HP 5 : AIR 1964 HP 34] Acquiescence can be either direct with full knowledge and express approbation, or indirect where a person having the right to set aside the action stands by and sees another dealing in a manner inconsistent with that right and in spite of the infringement takes no action mirroring acceptance. [See “Introduction”, U.N. Mitra, Tagore Law Lectures — Law of Limitation and Prescription, Vol. I, 14th Edn., 2016.]



However, acquiescence will not apply if lapse of time is of no importance or consequence.

40. Laches unlike limitation is flexible. However, both limitation and laches destroy the remedy but not the right. Laches like acquiescence is based upon equitable considerations, but laches unlike acquiescence imports even simple passivity. On the other hand, acquiescence implies active assent and is based upon the rule of estoppel in pais. As a form of estoppel, it bars a party afterwards from complaining of the violation of the right. Even indirect acquiescence implies almost active consent, which is not to be inferred by mere silence or inaction which is involved in laches. Acquiescence in this manner is quite distinct from delay. Acquiescence virtually destroys the right of the person. [See Vidyavathi Kapoor Trust v. CIT, 1991 SCC OnLine Kar 331 : (1992) 194 ITR 584] Given the aforesaid legal position, inactive acquiescence on the part of the respondent can be inferred till the filing of the appeal, and not for the period post filing of the appeal. Nevertheless, this acquiescence being in the nature of estoppel bars the respondent from claiming violation of the right of fair representation.”

(emphasis supplied)”

9(ii). In service matters a claim cannot be entertained ignoring without invoking the plea of



limitation, negligence or inaction in availing legal remedies, in view of the mandate of the Hon'ble Supreme Court in **State of Madhya Pradesh versus Ramkumar Choudhary, 2024 SCC OnLine SC 3612** in the following terms:

5. The legal position is that where a case has been presented in the **Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation.** In *Majji Sannemma v. Reddy Sridevi*, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in *Ajay Dabra v. Pyare Ram* wherein, it was held as follows:

"13. This Court in the case of *Basawaraj v. Special Land Acquisition Officer* [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court



could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant.”

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, **the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.**

- 5.1. In *Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir*, wherein, one **of** us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court **that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party.** The relevant passage of the same is profitably extracted below:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.



25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. **If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned.** This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. **The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not.** From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. **It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of**



condoning the delay.

27. We are of the view that the question of limitation is not **merely** a technical consideration. **The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the ‘Sword of Damocles’ hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.....**

34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that **delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party.** The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs.”

Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that **such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State.** Therefore, we are inclined to reject this petition at the threshold.

7. There is one another aspect of the matter



which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. **But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause.** There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (See: **Ajit Singh Thakur Singh and Another v. State of Gujarat**, AIR 1981 SC 733).

8. Accordingly, we dismiss this Special Leave Petition with costs of Rs.1,00,000/- to be deposited by the State within a period of two weeks from today with the Supreme Court Mediation Centre and file proof thereof. If the said amount, as directed, is not deposited by the State, the Registry shall take necessary steps for recovery of the same, in accordance with law.



9(iii). While negating the claim relating to denial of service benefits which accrued in the year 2008 against which the remedy was invoked in the year 2017, the Hon'ble Supreme Court in **Chief Executive Officer and others versus S.Lalitha and others, 2025 SCC OnLine SC 916**, held that unexplained delay in service disputes and inaction and negligence of a person in not ventilating his grievance within the limitation of limitation disentitles the person-employee for relief, in the following terms:-

21. One of us (Rajesh Bindal, J.), speaking for the coordinate Bench in State of Orissa v. Laxmi Narayan Das, **had the occasion to consider the effect that unexplained delay and laches would have in availing remedies. The Court in that case was concerned with a challenge to finally published record of rights. Taking note of multiple precedents in the field on the subject of delay or laches disentitling a party to relief, it was held that a writ petition filed 46 (forty-six) years after final publication was grossly belated and that no relief could have been made available to the respondents/ writ petitioners.**

24. The self-imposed restrictions in the

exercise of writ jurisdiction under Article 226 of the Constitution, which have evolved from judicial precedents of this Court, need not be restated here. **Suffice to say, unexplained delay or laches is considered one of the factors which could assume significance in denying relief when the discretionary writ remedy is invoked. In an appropriate case, a writ court may refuse to invoke its extraordinary powers if the applicant's negligence or omission to assert his right combined with undue delay or laches and prejudice to the other party warrants such refusal.**

36. On such premise as explained above, the respondent should have, if she felt aggrieved by the action of the appellants of granting her benefits of financial upgradation under the MACP Scheme instead of the ACP Scheme, availed the remedy before the **Tribunal immediately after her rights were affected. She ought not to have waited for so long for ventilating her grievance through a belated representation. Filing of such belated representation, which was rejected in no time, did not have the effect of postponing the cause of action and stretching the period of limitation so as to render the O.A. as filed within time.**

9(iv). While negating the belated claim in service matters, the Hon'ble Supreme Court has held in **H.**



Guruswamy & Ors. Versus A. Krishnaiah Since

deceased by LRs, 2025 SCC OnLine SC 54, in the

following terms:

“16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. **Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay** and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. **The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation.** It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical



consideration. **The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time.**

In the above background, this Court has no hesitation to hold that petitioners were appointed as daily wage Class-IV on 05.05.1999 [Annexure A-1]. Had the petitioners been aggrieved, then, the petitioners were bound to assert their right and remedy at the relevant time. Pertinently, during the year 1999, State Administrative Tribunal was in existence and once statutory forum was available for the petitioners to assert their rights and remedies [within the outer limit of one year and a half year in view of conjoint reading of Sections 20 and 21 of the Administrative Tribunals Act] but the petitioners neither asserted their right nor availed available remedy from 05.05.1999 upto July 2008 [the date on which State Administrative Tribunal remained in existence] therefore, in these circumstances, the petitioners having not assailed



their right/remedy and had allowed the cause to become stale and dead then, the same cannot be permitted to be reopened after a lapse of 20 years, by way of the instant petition.

10. Petitioners were regularized on 16.02.2009 prospectively, which was duly accepted by the them. In case of any grievance, the petitioners were bound to assert their right and avail the remedy, within a reasonable time. In service matters, an employee cannot be permitted to ventilate his grievances at whims and mercy at any point of time. Service related disputes [except in case of pension] are to be asserted by seeking appropriate remedy either under the Statutory Forums under Administrative Tribunal Act or under Industrial Disputes Act, as the case may be or even by seeking writ remedy within a reasonable period. In the instant case, even after regularization on 16.02.2009, the petitioners slept over their rights/remedies for 10 years till they made a representation [Annexure A-3] which was rejected



on 16.01.2019 [Annexure A-4]. Further a mere passing of a rejection order, can neither revive stale and dead claim nor revive the cause, by way of judicial intervention. In these circumstances, the instant petition is devoid of any merit.

11. Learned Counsel for the petitioners contends that the petitioners are poor persons, appointed on Class-IV on Daily Wage Basis on 05.05.1999 [Annexure A-1] and even though they stand regularized on 16.02.2009 yet, their claim may be considered for regularisation from 1999 as they belong to lower strata of the society.

The above contention of the Learned Counsel appears to be attractive but on scanning of the material on record, this Court has no hesitation to hold that misplaced sympathies will not confer any right when State Authorities have taken a specific stand in Reply-Affidavit, that the State Authorities created Class-IV Daily Wage Posts and after due approval, selection process was initiated for filling Class-IV



Daily Waged Posts; for which interviews were conducted in April, 1999 and selectees, alike petitioners were appointed as Class- IV on daily wages in May 1999, which was duly accepted by them. After accepting appointment as Class-IV Daily Wage Bases, the petitioners slept over rights/remedies for 10 years till they were regularised in terms of the regularization policy on 16.02.2009, which was also accepted by them without any demur. Having accepted appointment as Class-IV on daily wages in May, 1999 and their prospective regularization after 10 years in February, 2009 and having slept over thereafter till making of representation belatedly will not survive a stale and dead cause after 20 years. Even the policy decision for creating Class-IV Daily Wage Posts and also to fill these posts on daily wages by holding Interviews in April 1999 which culminated in May 1999, leading to the appointment of petitioners and others as Class-IV on Daily Wage Basis, has not been assailed in instant proceedings. Not laying a challenge to the policy



decision taken during the years 1999, for creating Class-IV Posts on Daily Wages disentitles the petitioners for any relief(s). In these circumstances, the claim of the petitioners is devoid of any merit and is turned down.

CONCLUSION:

12. Based on the above discussions, this Court has no hesitation to hold that once the State Authorities have created Class-IV posts on daily wage basis in February, 1999 which is borne out from the records and also corroborated from the Reply-Affidavit and the petitioners faced the selection process for Class-IV daily wage posts by participating in the interview and were appointed as Class-IV on daily wage basis in May, 1999 and continued to work as Class-IV on daily wage basis till their regularization in terms of the Government Policy after 10 years on 16.02.2009 [Annexure A-2 colly] and even thereafter the petitioners remained silent till filing of the writ petition in 2019 after a delay of about 20 years,



disentitles the petitioner for any relief. Moreover, the policy decision to create Class-IV posts on Daily Wage and also to fill created posts on daily wages remains un-assailed, in the instant proceedings. Even otherwise, the negligence, inaction and lack of bonafides on the part of the petitioner is writ large as they slept over their rights and remedies for about 20 years. The length of delay also disentitles the petitioner for relief. Moreover, no cogent and convincing explanation for the prolonged delay of 20 years has been given by petitioners. Further the plea that the petitioners are poor persons belonging to lower strata of the society cannot confer any rights on them, when the decision to create Class-IV Daily Waged Posts and to fill these Class- IV posts on Daily Wage Basis has not been assailed by the petitioners in instant case. Even the stale claims can neither be revived nor can the settled position can be unsettled after 20 years. In the above backdrop, the claim of the petitioners sans merit and the same is turned down.



DIRECTIONS:

13. In view of above discussion and for the reasons recorded hereinabove, the instant petition is *dismissed, in the following terms:-*

- (i). Rejection Order dated 16.01.2019 [Annexure P-4] needs no interference and is upheld;
- (ii). Claim of petitioners for treating them as Regular Class-IV Employees from the date of their initial appointment as Class-IV on daily wages on 05.05.1999 [Annexure A-1], being stale, dead and frivolous is disallowed; and otherwise not tenable;
- (iii). Selection held for newly created Class-IV Daily Wage Posts is leading to appointments of petitioners as Class-IV Daily Wagers based on policy decision does not suffer from any illegality or infirmity is upheld;
- (iv). Parties to bear their respective costs.

In aforesaid terms, the instant petition alongwith all pending miscellaneous application(s), if any, shall stand disposed of, accordingly.

(Ranjan Sharma)
Judge

November 27, 2025

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