

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR

NO. CGIT/LC/M/10/2025

Present: P.K.Srivastava

H.J.S..(Retd)

**Burhanpur Tapti Mills,
Burhanpur Through its Authorized Factory
Manager, Burhanpur Tapti Mills, Burhanpur,
Lalbagh, Burhanpur (A Unit of National Textile
Corporation Ltd., New Delhi), M.P. - 450331**

Workman

Versues

**Shri Shankar Kendulkar,
General Secretary, Rastriya Mills Mazdoor
Sangh (Etak), Lalbagh, Burhanpur (MP) – 450331**

Management

(AWARD)

(Passed on this 24th day of February, 2026)

The Applicant Management has filed petition under Rule 10B (9) of Industrial Disputes Central Rules, 1957 (in short the 'Rules') read with Section 151 and Order 9 Rule 13 of C.P.C. 1908, for setting aside the ex-parte Award/Judgment dated 10.02.2025 passed by this Tribunal against the Applicant Management in the case R/47/2023. This application is supported with affidavit.

An application of condonation of delay under Section 5 of Limitation Act in filing the petition has also been filed with affidavit.

Notices were issued to the OP Workman Union and were served. They did not appear.

I have heard argument of Learned Counsel for the Applicant Management Miss Ankita Khare and have gone through the record, including the record of the case R/47/2023 summoned at the time of hearing.

Facts connected are mainly that, case R/47/2023 was registered in this Tribunal on the basis of Reference, sent to this Tribunal, by the Ministry of Labour. Speed post notices were sent to the parties and were duly served. The Workman Union appeared. None appeared for the Management in spite of service of notice. Hence, the case proceeded ex-parte against the Management. The Workman Union filed his statement of claim, also filed his affidavit as his examination-in-chief and proved as many as 07 documents.

None appeared in the reference case for Management at any point of time. After hearing argument from the side of Workman Union, the reference was decided by Judgment/Award dated 10.02.2025 which is as follows –

“On the basis of above discussion, the Workmen in the Mill are held entitled to payment of bonus as per Section 8 of the Payment of Bonuses Act, rest of the disputes are held not cognizable by this Tribunal. The reference stands answered accordingly.”

This Award was notified by the Union Government, Ministry of Labour and Employment in the Official Gazette on 11.03.2025. A copy of this Award was sent to the parties.

The petition for setting-aside of Award has been filed before Tribunal on 31.08.2025. In its application for condonation of delay under Section 5 of Limitation Act, the Applicant Management admits that notices of reference case were duly served on them. They engaged their Advocate Mr. Praveen Namdeo, but he did not appear and did not inform about the status of the case. They received a copy of the Award sent to them by Secretary of this Tribunal on 05.07.2025, they came to know about the Award for the first time. Thereafter, they consulted their previous Counsel who did not reply. Then, they contacted to another Counsel and on his advice, they have filed this petition after taking required approvals and procedural formalities.

Learned Counsel has submitted that the Applicant is a Government sector undertaking, they were not informed about the status of Case by their earlier Counsel. They came to know about the Judgment/Award for the first

time when they received the copy of the Judgment/Award sent to them by Secretary of this Tribunal on 05.07.2025. After taking required approvals and following procedural formalities, they have filed this petition which is not within the period of limitation. There are sufficient and just reasons behind this delay as stated above. Learned Counsel further submits that, justice requires that the case be decided on merits after hearing both the sides, hence, it will be in the interest of justice to condone the delay and allow the petition.

Rule 10B (9) provides a period of 30 days for setting-aside an ex-parte Award. Since, the act and rules provides special provision with respect to limitation, the *first* question arises about the applicability of Limitation Act.

Section 17 and 17A of the Act and **Rule 22** are also being reproduced as follows –

17. Publication of reports and awards.—

(1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

(2) Subject to the provisions of section 17A, the award published under sub-section (1) shall be final and shall not be called in question by any Court in any manner whatsoever.

17A. Commencement of the award.—

(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that—

(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be.

Since there is specific provisions in the Act and Rules with regard to setting aside of an ex-parte Award, the general provisions of Civil Procedure

Code, while not apply in the case in hand. Hence, this application cannot be held maintainable under **Order 9 Rule 13** or under **Section 151 of Civil Procedure Code** but it cannot be dismissed only on this ground because it is maintainable under Rule 10B of the Rules.

Even if limitation in the case in hand be taken to from the alleged date of knowledge of Award, this petition has not been filed even within the period of 30 days from the date of knowledge of Award. The Applicant itself admits that, they came to know about Award on 05.07.2025, whereas the petition for setting-aside has been filed on 31.08.2025.

Grounds taken are that the time was consumed in taking necessary approvals and doing procedural formalities.

In its recent decision in the case of *State of Orissa Vs. Managing Committee of Namatara Girls High School (2026) INSC 148, Para 14,15 and 16 of this Judgment are being reproduced as follows –*

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

15. Close on the heels of Katiji (supra), Hon’ble Justice M.N. Venkatachaliah speaking for the coordinate Bench in *G. Ramegowda v. Land Acquisition Officer*¹⁰ had referred to Katiji (supra) in paragraph 14 and quoted the following passage therefrom:

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

respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

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

15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest.

The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.

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

17. Therefore, in assessing what, in a particular case, constitutes “sufficient cause” for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible.

It is rightly said that those who bear responsibility of Government must have “a little play at the joints”. Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. In the opinion of the High Court, the conduct of the law officers of the Government placed the Government in a predicament and that it was one of those cases where the mala fides of the officers should not be imputed to Government. It relied upon and trusted its law officers. ...

16. ***Katiji (supra) and Ramegowda (supra) were consistently followed by this Court until adoption of a different and seemingly strict approach while dealing with applications for condonation of delay during the last decade and a half became discernible starting with the decision in Postmaster General v. Living Media India Limited, where a delay of 427 days in filing the relevant special leave petition was not condoned.***

University of Delhi v. Union of India is another decision (of a three-Judge Bench of this Court) where delay of 916 days was not condoned.

While upholding the decision of the relevant high court under challenge refusing to condone the delay of 5659 days in presentation of an appeal under Section 54 of the Land Acquisition Act, 1894 by the heirs of a landowner, a coordinate Bench in Pathapati Subba Reddy v.

Collector(LA)13 very recently reiterated that the law of limitation is founded on public policy, the object is that a legal remedy is put to an end so that no litigation remains pending for an indefinite period. It was also held, departing from the earlier view, that the merits of the case cannot be considered at the stage of considering the application for condonation of delay.

17. **Indeed, one of us [Dipankar Datta] in Sheo Raj Singh v. Union of India¹⁴ authoring the judgment for a coordinate Bench adopted the view taken in Katiji (supra), Ramegowda (supra) and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was observed that a distinction ought to be drawn between an 'explanation' and an 'excuse' that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits in appeal over a discretionary order of the high court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation has to be examined.**

From the above aforesaid discussion, it is established that *firstly*, the restoration petition is filed with delay of more than 170 days. *Secondly*, the

Applicant Management were so negligent that they never cared about the status of the case when it was pending. *Thirdly*, even if their contention be accepted that, limitation will apply from the date of knowledge as provided in Limitation Act, their petition is beyond the period of 30 days which is the date of limitation from the date they came to know about the Award/Judgment. The reasons for filing the petition beyond this limitation are excuses with respect to bureaucratic and procedural delays, which are hopelessly insufficient keeping in view the facts and circumstances as well conduct of the Applicant Management in the case in hand.

The petition is **held *sans merits* and is liable to be dismissed accordingly.**

ORDER

Petition dismissed.

No order as to cost.

DATE:- 24.02.2026



**(P.K.SRIVASTAVA)
PRESIDING OFFICER**