

University Of Kerala vs Dr.C.Viswanathan on 30 September, 2026

Author: [Anil K.Narendran](#)

Bench: [Anil K.Narendran](#)

1

WA No.997 of 2021

CNR : KLHC010424062021

2026:KER:75260

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2026 / 8TH ASWINA, 1948

WA NO. 997 OF 2021

AGAINST THE JUDGMENT DATED 31.03.2021 IN WP(C) NO.39 OF 2019

OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 2 AND 3:

- 1 UNIVERSITY OF KERALA
REPRESENTED BY THE REGISTRAR,
PRIYADARSHINI HILLS, THIRUVANANTHAPURAM-695034.

2 THE REGISTRAR, UNIVERSITY OF KERALA,
PRIYADARSHINI HILLS,
THIRUVANANTHAPURAM-695034.

BY ADV SMT.GIRIJA K GOPAL

RESPONDENTS/PETITIONER AND RESPONDENTS 1 AND 4:

- 1 DR.C.VISWANATHAN
AGED 66 YEARS
S/O. LATE K.CHELLAPPAN,
PRINCIPAL (RETD.), S.N.COLLEGE,
ALATHUR, RESIDING AT THAPASYA,
S.L.PURAM P.O., CHERTHALA,
ALAPPUZHA-688524.
- 2 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,

2

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THIRUVANANTHAPURAM-695001.

- 3 THE CORPORATE MANAGER,
SREE NARAYANA COLLEGES, P.B.NO.63,
KOLLAM-691003.

BY ADVS.

SHRI.ELVIN PETER P.J. (SR.)

SRI.K.R.GANESH

SRI.CHETHAN KRISHNA R. GOVERNMENT PLEADER

THIS WRIT APPEAL WAS FINALLY HEARD ON 19.08.2026, THE COURT
ON 30.09.2026 PASSED THE FOLLOWING:

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"CR"

JUDGMENT

Muralee Krishna, J.

The respondents 2 and 3 in W.P.(C)No.39 of 2019 filed this writ appeal under [Section 5\(i\)](#) of the Kerala High Court Act, 1958, challenging the judgment dated 31.03.2021 passed by the learned Single Judge in that writ petition.

2. Going by the averments in the writ petition, the 1st respondent-writ petitioner is aggrieved by Ext.P10 order dated 26.03.2018 issued by the 2nd appellant, the Registrar, University of Kerala, rejecting the request of the 1st respondent to give promotion to him to the post of Selection Grade Lecturer with effect from 25.10.1994 in the light of Ext.P5 Government order dated 27.03.1990. According to the 1st respondent, he entered service as Lecturer in the Department of Economics in Sree Narayana College, Cherthala, affiliated to the 1st appellant on 25.10.1982. His appointment was approved by the 1st appellant as per Ext.P1 order dated 16.09.1983 with effect from 25.10.1982, and he was promoted as Senior Grade Lecturer on 4 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 25.10.1990. By Ext.P2 proceedings dated 21.01.1999 issued by the Corporate Manager of Sree Narayana College, the 1st respondent was granted placement as Lecturer (Selection Grade) with effect from 25.10.1995. The 1st respondent obtained M.Phil degree in Economics from the 1st appellant University in the examination held in January 1993 and was issued with Ext.P3 M.Phil degree certificate dated 10.10.1994. Thereafter, he obtained Ph.D degree in Economics from the 1st appellant University and was awarded Ext.P4 Ph.D degree certificate dated 20.06.1998. The 1st respondent contends that as per the terms of Ext.P5 Government Order dated 27.03.1990, a Lecturer, who, while in service, acquires M.Phil degree and Ph.D degree, is entitled to get relaxation of one year and three years, respectively, for promotion to the post of Lecturer (Selection Grade).

2.1. The University did not accept Ext.P2 proceedings issued by the Corporate Manager of the College, and Ext.P2 proposal was sent back with remarks that the 1st respondent is eligible for promotion to the post of Lecturer (Selection Grade) only with 5 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260

effect from 25.10.1997 on account of the acquisition of M.Phil degree, by giving relaxation of one year as provided in Ext.P5 Government Order. Thereafter, the Corporate Manager issued revised proceedings dated 29.06.2000 promoting the 1st respondent as Lecturer (Selection Grade) with effect from 29.10.1997. Consequently, the University approved the promotion of the 1st respondent as Lecturer (Selection Grade) with effect from 25.10.1997 as per Ext P7 order dated 23.01.2001.

2.2. Aggrieved by Ext.P7 order, the 1st respondent submitted Ext.P8 representation dated 13.09.2017 before the University, claiming promotion as Lecturer (Selection Grade) with effect from 25.10.1994. Thereafter, the 1st respondent approached this Court by filing W.P.(C)No.40574 of 2017, in which this Court, by Ext.P9 judgment dated 18.12.2017, directed the University to consider and pass orders on Ext.P8 representation within two months from the date of receipt of a copy of that judgment. In compliance with the directions in Ext.P9 judgment, the University issued Ext.P10 order dated 26.03.2018, however rejecting Ext.P8 representation. 6 WA No.997 of 2021

CNR : KLHC010424062021 2026:KER:75260 The University, in order to issue Ext.P10 order, called for remarks from the Audit Department of the Kerala Government (Kerala University Audit), and the Joint Director of the Audit Department issued Ext.P11 communication dated 09.02.2018, giving its opinion against the claim of the 1st respondent. Thereafter, the 1st respondent-writ petitioner filed the present writ petition i.e., W.P.(C)No.39 of 2019 under [Article 226](#) of the Constitution of India, seeking the following reliefs;

"i) to issue a writ of certiorari or appropriate writ, order or direction calling for the records leading to Ext.P10 order and quash the same.

ii) to issue a writ of certiorari or other appropriate writ, Order or direction calling for the records leading to Ext.P7 order and quash the same to the extent it approved the promotion of the petitioner as Selection Grade Lecturer with effect from 25.10.1997; instead of 25.10.1994.

iii) to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents 2 and 3 to approve the promotion of the petitioner to the post of Selection Grade Lecturer with effect from 25.10.1994 on account of acquisition of Ph.D. and M.Phil. Degree in the light of Ext. P5 Government Order and also to grant him all consequential monetary and other service benefits;

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iv) to issue a writ of mandamus or any other appropriate writ, order or direction directing the 4th respondent to issue a proposal relating to the promotion of the petitioner to the category of Selection Grade Lecturer with effect from 25.10.1994 to the 2nd respondent within a time fixed by this Hon'ble Court;

v) to declare that the petitioner is entitled to get promotion to the post of Selection Grade Lecturer with effect from 25.10.1994 in the light of Ext. P5 Government Order". 2.3. In the writ petition on behalf of the

appellants - respondents 2 and 3, a statement dated 15.02.2019 was filed opposing the claim raised by the 1st respondent. Paragraphs 4 to 8 of that statement read thus;

"4. Petitioner was awarded Ph.D. only on 07.03.1998. Relaxation of Ph.D. can be granted only with effect from the date of award of Ph.D. As such, petitioner is eligible for only seven months of relaxation on account of Ph.D. as the benefits extended by virtue of a qualification can never be with effect from a date prior to the date of attaining such qualification.

5. As per Ext. P2 the 4th Respondent forwarded the proceedings placing the Petitioner as Lecturer Selection Grade with effect from 25.10.1995, granting him a relaxation of 3 years on account of his Ph.D. degree. It may 8 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 be noted that the petitioner was awarded Ph.D. degree only on 07.03.1998. Hence he cannot be promoted with effect from 25.10.1995 by virtue of a degree attained only on 07.03.1998, as stated supra.

6. As the Petitioner was eligible to be promoted only with effect from 25.10.1997, by virtue of his M.Phil. Degree, a letter was sent to the Principal, SN College, Cherthala, to revise the proposal. The benefit extended by virtue of a qualification can never be with effect from a date prior to the date of attaining such qualification. Consequently, the Petitioner was given approval by the University with effect from 25.10.1997 as per Order dated 23.01.2001. Placement cannot be granted to the Petitioner with effect from 25.10.1994 giving him a relaxation of 3+1= 4 years on account of Ph.D. and M.Phil. Moreover the teacher cannot avail relaxation of years cumulatively on account of both M.Phil. and Ph.D. together. Hence the contention of the petitioner that he should be granted promotion with effect from 25.10.1994 availing relaxation on account of a Ph.D. degree acquired on 07.03.1998 is per se incorrect and hence denied.

7. In compliance with Exhibit P9 Judgment dated 18.12.2017, the University considered the representation filed by the Petitioner and rejected the same. The remarks of the Kerala State Audit Department were also obtained. The Audit Department also opined that the Petitioner was 9 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 not eligible for 3 years relaxation on account of his Ph.D. degree since he had obtained the same on a much later date i.e., 07.03.1998. It was further reported that the placement to selection grade granted with effect from 25.10.1997 giving a relaxation of one year on account of M.Phil., is in order.

8. Without prejudice to the contentions supra, it is pertinent to note that the petitioner has raised such a demand now after a long gap of 17 years which clearly reveals that the matter of placement to selection grade from 1994 was never a concern earlier and is only an afterthought".

2.4. To the statement filed by the appellants, the 1 st respondent - writ petitioner filed a reply dated 25.05.2019. Paragraph 2 of that reply statement reads thus;

"2. The averments contained in paragraph 4 of the statement that the petitioner acquired Ph.D. only on 07.03.1998 and hence the 3 years relaxation contemplated under paragraph

5.06 of Ext.P5 order can be granted only from the date of acquisition of Ph.D. is absolutely incorrect, misconceived, illegal and hence denied. What is contemplated under clause 5.06 of Ext.P5 order is a grant of promotion to the category of Reader in the Selection Grade to those Lecturers who completes a total period of 16 years of service as on 01.01.1986 or thereafter. The fact that the petitioner had completed 16 years of service on 10 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 25.10.1998 is not in dispute. Thus, the petitioner became eligible to be granted promotion to the post of Reader in the Selection Grade on 25.10.1998 the date on which he completed 16 years of service. Hence, when the petitioner acquired eligibility to be promoted as Reader in the Selection Grade on 25.10.1998 the last limb of clause 5.06 applies because only those who attain the qualification namely completion of 16 years of service will be eligible to be promoted as Reader Selection Grade and it is only those persons who have completed 16 years of service will be eligible for relaxation of 3 years of service if they possess the Ph.D. as on the date of which they had completed the 16 years of service. In other words, the relaxation of 3 years for promotion as Reader in the Selection Grade has to be considered with reference to the date of eligibility of the person to be promoted as Reader. The statements contained in the reply statement filed by the respondents that a Teacher should possess Ph.D. even prior to the date on which he completes the 16 years of service for claiming the

3 years of relaxation is absolutely misconceived and misreading or rather a misunderstanding of the provision. Clause 5.06 envisages a promotion as Reader Selection Grade to those who completes 16 years of service. Thus, the relaxation of 3 years on possession of Ph.D. has also to be considered with reference to the date of completion of 16 years. Thus all the statements to the contrary contained in 11 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 the statement is absolutely incorrect, misconceived and hence denied".

2.5. After hearing both sides and on appreciation of materials on record, the learned Single Judge, by the impugned judgment dated 31.03.2021, allowed the writ petition. After extracting Clauses 4.04, 5.03, and 5.06 of Ext.P5 Government Order (mistakenly stated as Ext.P2 in the impugned judgment), the learned Single Judge, in paragraph 8 of the said judgment, held thus;

"8. On a cumulative reading of the Clauses, the expression 'as and when they acquire research degrees', as well as 'relaxation in the year of service by 3 years and 1 year respectively, if holder of Ph.D or M.Phil Degree' would not mean benefit would be granted from date of acquiring the Ph.D degree, as Clause 5.06 has to be read as a whole and in conjunction with clauses 5.03 and 5.04 and not in isolation. By fixing the date as 1.1.1996 or thereafter (emphasis supplied) would render a candidate eligible for the post of Reader which would relate back to the stage when the petitioner completed the service of 16 years and only then can claim benefit of relaxation 3+1 ie. Three year for Ph.D 1 year for M.Phil which is admissible, thus, the reasons assigned in Ext.P10 granting benefits to the 12 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 petitioner w.e.f 25.10.1997 and not from 25.10.1994 is wholly atrocious, fallacious, repugnant and hereby set aside. Mandamus is issued to the respondents to grant the benefit of Selection Grade to the petitioner w.e.f 25.10.1994 by approving promotion to the post of Reader from the same date".

2.6. Being aggrieved, the appellants have filed the present writ appeal.

3. Heard Smt. Girija K. Gopal, the learned Standing Counsel for the Kerala University for the appellants, Sri. K. R. Ganesh, the learned counsel for the 1st respondent - writ petitioner and Sri. Chethan Krishna R, the learned Government Pleader.

4. The argument addressed at the Bar by either side centres around the point whether the claim raised by the 1st respondent-writ petitioner is a stale claim, as he retired from service on 31.05.2001. When the learned Standing Counsel for the University and the learned Government Pleader cited various judgments to contend that the claim of the 1st respondent is hopelessly barred in view of the delay in raising the claim, the contention of the learned counsel for the 1st respondent is that by 13 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 Ext.P9 judgment dated 18.12.2017 in W.P.(C)No. 40574 of 2017, this Court directed consideration of Ext.P8 representation dated 13.09.2017 submitted by the 1st respondent, which was acted upon by the University, and therefore the appellants cannot raise such a contention in the present writ petition. It is also the argument of the learned counsel for the 1st respondent that the claim of the 1st respondent has a recurring cause of action and therefore it cannot be taken as a stale claim.

5. During the course of arguments, the learned Standing Counsel for the University submitted that in the representation as well as in the writ petitions filed by the 1st respondent, his claim was for promotion as Lecturer (Selection Grade) in view of Ext.P5 Government Order dated 27.03 1990. It was for the first time in the judgment of the learned Single Judge, by relying on Clause 5.06 of Ext.P5 Government Order, it was directed to approve the promotion of the 1st respondent in the post of Reader.

6. As already stated, the contention of the parties in the writ appeal centres around the point whether the claim of the 1st 14 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 respondent can be entertained at this distant point of time, when admittedly he retired from service on 31.05.2001 and whereas the claim for promotion as Lecturer (Selection Grade) was raised for the first time by Ext.P8 representation dated 13.09.2017 submitted to the University. To answer this point, it is appropriate to extract the relevant clauses in Ext.P5 Government order and the relevant portions of the judgments relied by the learned counsel on either side.

7. Clause 4.04, 5.03, 5.05 and 5.06 of Ext.P5 order read thus;

"4.04. In order to encourage research, in continuation of Post Graduate Studies, Candidates who, at the time of their recruitment as Lecturers possess Ph.D or M. Phil degree will be sanctioned three and one advance increments respectively along with the benefit of corresponding years of service for the purpose of promotion. The existing Lecturers without research degrees and those similarly situate, recruited in future will be eligible for a similar benefit in service for the purpose of promotion as when they acquire research degrees, but will not be eligible for advance increments. Existing Lecturers with research degrees will also be eligible for a similar benefit.

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5.03. Every Lecturer in the Senior Scale will be eligible for promotion to the post of Reader in the scale of pay of Rs. 3700-5700 if he/she has-

(a) Completed 8 years of service in the senior scale provided that the requirement of 8 years will be relaxed if the total service of the Lecturer not less than 16 years.

(b) Obtained a Ph.D. degree or an equivalent published work.

(c) Made some mark in the areas of scholarship and research as evidenced by self-assessment, report of referees, quality of publications, contribution to educational renovation, design of new courses and curricula etc.

(d) Participated in two refresher courses/summer institutes each of approximately 4 weeks duration or engaged in other appropriate continuing education programmes of comparable quality as may be specified by the U. G. C. after placement in the senior Scale and

(e) Consistently good performance appraisal reports.

xxx xxx xxx 5.05 Those Lecturers in the senior scale who do not have Ph.D degree or equivalent published work and who do not meet the scholarship and research standards of a Reader, but fulfil the other criteria mentioned in Para 5.03 and have a good record in teaching and/or participated in extension activities, will be placed in the grade of Rs. 3700-5700 16 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 subject to the recommendations of the Committee mentioned in Para 5.04. They will be designated as Lecturer in the Selection Grade. Posts in the selection grade will be created for this purpose by upgrading the posts held by them by the University or the Director of Collegiate Education. They could offer themselves for a fresh assessment after obtaining Ph.D and/or fulfilling other requirements for promotion as Reader, and, if found suitable, would be given the designation of Reader.

5.06 Teachers in Universities and affiliated Colleges will be placed at the appropriate stage in the revised U. G. C. scales in accordance with the pay Fixation formula under this scheme. Existing Lecturers who have completed or will complete a total period of sixteen years of service on 01.01.1986 or thereafter will be eligible for promotion to the post of Reader in the selection grade as per the provisions contained in Para 5.03 to 5.05. They will also be entitled to the relaxation in the years of service by 3 years and one year respectively if they hold Ph.D or M. Phil degree".

8. While coming to the judgments relied upon by the learned Standing Counsel for the University, in [Jacob C v. Director of Geology and Mining](#) [(2008) 10 SCC 115], The Apex Court considered the issue of delay of 18 years in submitting a representation by the petitioner therein, who was terminated 17 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 from service as a Drill Helper. In that judgment, the Apex Court observed that the Tribunals/High Courts routinely allow or dispose of such applications/petitions (many a time even without notice to the other side), without examining the matter on merits, with a direction to consider and dispose of the representation. In that judgment the Apex Court held that the replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim. 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 'acknowledgment of a jural relationship' to give rise to a fresh cause of action. If the representation is on the face of it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing 'consideration' of such claims. Paragraphs 6 to 8 and 10 of that judgment read thus;

"6. The modus of 'representation' Let us take the hypothetical case of an employee who is terminated from service in 1980. He does not challenge the 18 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 termination. But nearly two decades later, say in the year 2000, he decides to challenge the termination. He is aware that any such challenge would be rejected at the threshold on the ground of delay (if the application is made before Tribunal) or on the ground of delay and laches (if a writ petition is filed before a High Court). Therefore, instead of challenging the termination, he gives a representation requesting that he may be taken back to service. Normally, there will be considerable delay in replying such representations relating to old matters. Taking advantage of this position, the ex employee files an application/writ petition before the Tribunal/High Court seeking a direction to the employer to consider and dispose of his representation. The Tribunals/High Courts routinely allow or dispose of such applications/petitions (many a time even without notice to the other side), without examining the matter on merits, with a direction to consider and dispose of the representation. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realize the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex employee gets a relief, which he would not have got on account of the long delay, all by reason of the 19 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 direction to 'consider'. If the representation is considered and rejected, the ex employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored.

7. Every representation to the government for relief, may not be replied 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.

8. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person 20 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 directed) examines the matter on merits, being under the impression that failure to do 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 'acknowledgment of a jural relationship' to give rise to a fresh cause of action.

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10. We are constrained to refer to the several facets of the issue only to emphasize the need for circumspection and care in issuing directions for 'consideration'. If the representation is on the face of it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing 'consideration' of such claims". (Underline supplied)

9. In [Union of India v. M. K. Sarkar](#) [(2010) 2 SCC 59], while considering more than 22 years' delay after retirement of the respondent therein from railway service for making a representation requesting that he may be extended the benefit of the pension scheme, the Apex Court held that a Court or Tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or 21 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'state' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal decides to direct 'consideration' without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect. Relevant portions of paragraphs 14, 15 and 16 of [the said judgment](#) read thus;

"14. The order of the Tribunal allowing the first application of respondent without examining the merits, and directing appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. The ill - effects of such directions have been considered by this Court in [C. Jacob v. Director of Geology and Mining and Another](#) [(2008) 10 SCC 115].

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15. When a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in 22 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 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.

16. A Court or Tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct 'consideration' without itself examining of the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect".

(Underline supplied) 23 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260

10. In [State of Uttaranchal v. Shiv Charan Singh Bhandari](#) [(2013) 12 SCC 179], on the issue of a belated claim raised by the respondents therein for promotion from SAS Group III to SAS Group II in Subordinate Agricultural Services in the Department of Agriculture in the undivided State of Uttar Pradesh, the Apex Court after referring to various judgments on the point whether a direction for consideration of representation by the court or tribunal revive a stale or dead claim held 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. Relevant portions of Paragraphs 14, 16 to 26 of that judgment read thus:

"14. The centripetal issue that really warrants to be dwelled upon is whether the respondents could have been allowed to maintain a claim petition before the tribunal after a lapse of almost two decades inasmuch as the said Madhav Singh Tadagi, a junior employee, was conferred the benefit of ad hoc promotion from 15.11.1983. It is not in dispute that the respondents were aware of the same. There is no cavil over 24 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 the fact that they were senior to Madhav Singh Tadagi in the SAS Group III and all of them were considered for regular promotion in the year 1989 and after their regular promotion their seniority position had been maintained. We have stated so as their inter - se seniority in the promotional cadre has not been affected. Therefore, the grievance in singularity is non - conferment of promotional benefit from the date when the junior was promoted on ad hoc basis on 15.11.1983.

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16. We have no trace of doubt that the respondents could have challenged the ad hoc promotion conferred on the junior employee at the relevant time. They chose not to do so for six years and the junior employee held the promotional post for six years till regular promotion took place. The submission of the learned counsel for the respondents is that they had given representations at the relevant time but the same fell in deaf ears. It is interesting to note that when the regular selection took place, they accepted the position solely because

the seniority was maintained and, thereafter, they knocked at the doors of the tribunal only in 2003. It is clear as noon day that the cause of action had arisen for assailing the order when the junior employee was promoted on ad hoc basis on 15.11.1983.

17. In [C. Jacob v. Director of Geology and Mining and 25 WA No.997 of 2021 CNR](#) : KLHC010424062021 2026:KER:75260 Another [(2008) 10 SCC 115], a two - Judge Bench was dealing with the concept of representations and the directions issued by the court or tribunal to consider the representations and the challenge to the said rejection thereafter. In that context, the court has expressed thus: -

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18. In [Union of India and Others v. M.K. Sarkar](#) [(2010) 2 SCC 59] this Court, after referring to [C. Jacob](#) (supra) has ruled that 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.

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 26 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 submission of representation to the competent authority does not arrest time.

20. In Karnataka Power Corpn. Ltd. through its Chairman & Managing Director v. K. Thangappan and another [(2006) 4 SCC 322], the Court took note of the factual position and laid down that when nearly for two decades the respondent

- workmen therein had remained silent mere making of representations could not justify a belated approach.

21. In [State of Orissa v. Pyarimohan Samantaray](#) [(1977) 3 SCC 396} it has been opined that making of repeated representations is not a satisfactory explanation of delay. The said principle was reiterated in [State of Orissa v. Arun Kumar Patnaik](#) [(1976) 3 SCC 579].

22. In [Bharat Sanchar Nigam Limited v. Ghanshyam Dass](#) (2) and others [(2011) 4 SCC 374], a three - Judge Bench of this Court reiterated the principle stated in [Jagdish Lal v. State of Haryana](#) [(1997) 6 SCC 538] and proceeded to observe that as the respondents therein preferred to sleep over their rights and approached the tribunal in 1997, they would not get the benefit of the order dated 7.7.1992.

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: -

"....filing of representations alone would not save the period of limitation. Delay or laches is a relevant 27 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 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. [Art.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."

24. There can be no cavil over the fact that the claim of promotion is based on the concept of equality and equitability, but the said relief has to be claimed within a reasonable time. The said principle has been stated in [Ghulam Rasool Lone v. State of Jammu and Kashmir and Another](#) [(2009) 15 SCC 321].

25. In [New Delhi Municipal Council v. Pan Singh and others](#) [(2007) 9 SCC 278], the Court has opined that though there is no period of limitation provided for filing a writ petition under [Art.226](#) of the Constitution of India, yet ordinarily a writ petition should be filed within a reasonable time. In the said case the respondents had filed the writ petition after seventeen years and the court, as stated earlier, took note of the delay and laches as relevant factors and set aside the order passed by the High Court which had exercised the discretionary jurisdiction.

26. Presently, sitting in a time machine, we may refer to a 28 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 two - Judge Bench decision in [P.S. Sadasivasway v. State of Tamil Nadu](#) [(1975) 1 SCC 152], wherein it has been laid down 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. It is not that there is any period of limitation for the Courts to exercise their powers under [Art.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".

(Underline supplied)

11. In [Union of India v. Chaman Rana](#) [(2018) 5 SCC 798], in the two writ appeals arising from a common order directing retrospective consideration for promotion of the respondents therein to the post of Second-in-Command and Commandant respectively, in the Border Security Force from the date their juniors had been promoted along with all consequential benefits, the Apex Court held that mere repeated filing of 29 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 representations could not be sufficient explanation for delay in approaching the Court for grant of relief and a court or tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court / tribunal should put an end to the matter and should not direct consideration or reconsideration. Relevant portions of paragraphs 10, 11, 12, 15 and 16 of that judgment read thus;

"10. As far back as in [P. S. Sadasivaswamy v. The State of Tamil Nadu](#) [(1975) 1 SCC 152], considering a claim for promotion belated by 14 years, this Court had observed that a period of six months or at the utmost a year would be reasonable time to approach a court against denial of promotion and that it would be a sound and wise exercise of discretion not to entertain such claims by persons who tried to unsettle the settled matters, which only clog the work of the court impeding it in considering genuine grievances within time in the following words :

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11. Mere repeated filing of representations could not be sufficient explanation for delay in approaching the Court for 30 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 grant of relief, was considered in [Gandhinagar Motor Transport Society v. State of Bombay](#) [AIR 1954 Bombay 202] by Chief Justice Chagla, observing as follows :

"(2)..... Now, we have had occasion to point out that the only delay which this Court will excuse in presenting a petition is the delay which is caused by the petitioner pursuing a legal remedy which is given to him. In this particular case the petitioner did not pursue a legal remedy. The remedy he pursued was extralegal or extra - judicial. Once the final decision of government is given, a representation is merely an appeal for mercy or indulgence, but it is not pursuing a remedy which the law gave to the petitioner..."

12. The appellant, in its counter affidavit before the High Court, had specifically taken the objection that the claim was highly belated, and that any direction for a retrospective consideration would have a destabilising effect in unsettling the settled position which would lead to complete chaos apart from other administrative consequences. The High Court failed to consider the objection. In [Union of India v. M. K. Sarkar](#) [(2010) 2 SCC 59] this Court observed as follows:

"16. A court or tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with 31 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court / tribunal should put an end to the matter and should not direct consideration or reconsideration...."

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15. A subsequent pronouncement by this Court could not enthrone a fresh lease of life, or furnish a fresh cause of action to what was otherwise clearly a dead and stale claim. In [State of Uttaranchal v. Shiv Charan Singh Bhandari](#) [(2013) 12 SCC 179], it was observed that :

"29.... Not for nothing, has it been said that everything may stop but not the time, for we are all slaves of time. There may not be any provision providing for limitation but a grievance relating to promotion cannot be given a new lease of life at any point of time."

16. The observations with regard to the modus operandi of the representation syndrome to revive what are clearly dead and stale claims as discussed in [C. Jacob vs. Director of Geology and Mining](#) [(2008) 10

SCC 115], and the caution to be exercised by the Court are also considered apposite in the facts of the present case".

(Underline supplied)

12. In P.S. Sadasivaswamy v. State of Tamil Nadu 32 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 [(1975) 1 SCC 152], which is an appeal filed against the judgment of the High Court of Madras, wherein the grievance of the appellant was that the 2nd respondent therein who was junior to him as Assistant Engineer was promoted as Divisional Engineer in 1957 by relaxing the relevant rules regarding the length of service necessary for promotion as Divisional Engineer and that his claim for similar relaxation was not considered at that time, the Apex Court held that 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 matters. In that judgment the Apex Court further held that entertaining such petitions is a waste of time of the Court and it clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. Paragraph 2 of the said judgment reads thus;

"2. The main grievance of the appellant is that the 2nd respondent who was junior to him as Assistant Engineer 33 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 was promoted as Divisional Engineer in 1957 by relaxing the relevant rules regarding the length of service necessary for promotion as Divisional Engineer and that his claim for a similar relaxation was not considered at that time. The learned Judge of the Madras High Court who heard the writ petition was of the view that the relaxation of the rules in favour of the 2nd respondent without considering the appellant's case was arbitrary. In view of the statement on behalf of the Government that such relaxation was given only in the case of overseas scholars, which statement was not controverted, it is not possible to agree with the view of the learned Judge. Be that as it may, if the appellant was aggrieved by it he should have approached the court in the year 1957 after the two representations made by him had failed to produce any result. One cannot sleep over the matter and come to the Court questioning that relaxation in the year 1971. There is the further fact that even after respondents 3 and 4 were promoted as Divisional Engineers over the head of the appellant he did not come to the Court questioning it. There was a third opportunity for him to have come to the Court when respondents 2 to 4 were again promoted as Superintending Engineers over the head of the appellant. After fourteen long years because of the tempting prospect of the chief Engineership he has come to the Court. In effect he wants to unscramble a scrambled egg. It is very difficult for the Government to 34 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 consider whether any relaxation of the rules should have been made in favour of the appellant in the year 1957. The conditions that were prevalent in 1957 cannot be reproduced now. In any case as the Government had decided as a matter of policy, as they were entitled to do, not to relax the rules in favour of any except overseas scholars it will be wholly pointless to direct them to consider the appellant's case as if nothing had happened after 1957. Not only respondent 2 but also respondents 3 and 4 who were the appellant's juniors became Divisional Engineers in 1957 apparently on the ground that their merits deserved their promotion over the head of the appellant. He did not question it. Nor did he

question the promotion of his juniors as Superintending Engineers over his head, he could have come to the Court on every one of these three occasions. 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 [Art.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 [Art.226](#) in the case of persons who do not approach it expeditiously for relief and 35 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal".

(Underline supplied)

13. In [Chief Executive Officer v. S. Lalitha](#) [2025 SCC Online SC 916], which is a special leave petition filed challenging the order of the High Court of Karnataka at Bengaluru dismissing the writ petition filed by the appellants therein, the Apex Court, after considering various judgments on the issue of limitation, held that the representation inviting attention to what the aggrieved applicant - public servant perceives is deprivation of a legitimate benefit has to be made expeditiously and before accrual of third - party rights, if any. Such a representation could be made even after accrual of third - party rights, but within a reasonable time of the same coming to the notice of the aggrieved applicant - 36 WA No.997 of 2021

CNR : KLHC010424062021 2026:KER:75260 public servant. What would constitute reasonable time would necessarily depend on the facts of each particular case and decided accordingly. Paragraphs 34 and 35 of that judgment read thus;

"34. To summarise the legal position, what assumes cruciality in cases, such as these, is whether the representation that has been made and rejected, whereafter the jurisdiction of the CAT is invoked, is statutorily provided in the service rules governing the applicant - public servant. Bare reading of the opening words of Section 20 of the 1985 Act with sub-section (1), which requires exhaustion of other available remedies as a general precondition for entertaining original applications under Section 19, refers to remedies that are available under the relevant service rules as to redressal of grievances against final orders. If the relevant service rules do not provide for making of a representation against final orders, by reason of absence of such a provision, the remedy of the aggrieved applicant - public servant would lie directly before the CAT in challenging the order/action of the authorities adverse or prejudicial to his interest; and, in such a case, an original application ought not to be rejected mechanically on the ground that all "remedies" have not been exhausted. However, it cannot be gainsaid that if the relevant service rules do provide for 37 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 making of a representation, the remedy made available has to be exhausted unless an exceptional case is set up. Provision made in the

service rules, if at all, for making of a statutory representation, timing of such representation and whether the representation raises a "stale" or "dead" claim

- all these are relevant for deciding the question of limitation under the 1985 Act. The opening words of S.20 read with sub-section (2) thereof would, however, call for a nuanced approach. As observed earlier, a representation though not provided in the relevant rules governing service could yet be necessary and imperative when a legitimate service benefit is not conferred on the aggrieved applicant - public servant by the employer on his own either due to inaction or otherwise. In such a case, the representation inviting attention to what the aggrieved applicant - public servant perceives is deprivation of a legitimate benefit has to be made expeditiously and before accrual of third - party rights, if any. Such a representation could be made even after accrual of third - party rights, but within a reasonable time of the same coming to the notice of the aggrieved applicant

- public servant. What would constitute reasonable time would necessarily depend on the facts of each particular case and decided accordingly.

35. We hold that except in cases where final orders are passed on appeals/revisions/memorials/representations which are statutorily provided, limitation for the purpose of 38 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 filing an original application under S.19 of the 1985 Act, in view of the above - referred decisions and S.21 and S.20 thereof, has to be reckoned keeping in mind the date of accrual of the cause of action and the proximity of the date of the representation, and the period of one year for filing an original application has to be counted from the date of expiry of six months from date of such a representation if no order were passed thereon. Needless to observe, the cause of action cannot be deferred by making a highly belated representation and awaiting its outcome. We also make it clear that different considerations would arise in a case of a continuous wrong, which has to be decided in the light of the decision of this Court in [Union of India v. Tarsem Singh](#) [2008 INSC 930 : (2008) 8 SCC 648]".

(Underline supplied)

14. While coming to the judgments relied by the learned Government Pleader, in [Union of India v. A. Durairaj](#) [(2012) 1 SCC (civil) 618] on the question of delay and laches in approaching the Tribunal for necessary reliefs, the Apex Court held that anyone who feels aggrieved by non - promotion or non - selection should approach the Court/Tribunal as early as possible. Even if no period of limitation is prescribed, any belated challenge would be liable to be dismissed on the ground of delay and laches. 39 WA No.997 of 2021

CNR : KLHC010424062021 2026:KER:75260 Paragraph 13 of that judgment reads thus;

"13. It is well settled that anyone who feels aggrieved by non - promotion or non - selection should approach the Court/Tribunal as early as possible. If a person having a justifiable grievance allows the matter to become stale and approaches the Court/Tribunal belatedly, grant of any relief on the basis of such belated application would lead to serious administrative complications to the employer and difficulties to the other employees as it will

upset the settled position regarding seniority and promotions which has been granted to others over the years. Further, where a claim is raised beyond a decade or two from the date of cause of action, the employer will be at a great disadvantage to effectively contest or counter the claim, as the officers who dealt with the matter and / or the relevant records relating to the matter may no longer be available. Therefore, even if no period of limitation is prescribed, any belated challenge would be liable to be dismissed on the ground of delay and laches."

(Underline supplied)

15. In [Chairman/Managing Director Uttar Pradesh Power Corporation Ltd. v Ram Gopal](#) [(2021) 13 SCC 225], which is an appeal filed by Uttar Pradesh Power Corporation Ltd. assailing the order passed by a Division Bench of the High Court 40 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 of Judicature at Allahabad (Lucknow Bench) upholding the order passed by the learned Single Judge of that High Court whereby the writ petition for setting aside the termination of the respondent was allowed and directed his consequent reinstatement, the Apex Court held thus;

"9. xxx xxx xxx

iii) Inordinate delay in filing writ petition 9.4.Finally, the prolonged delay of many years ought not to have been overlooked or condoned. Services of the Respondent were terminated within months of his appointment, in 1978. Statedly, the Respondent made a representation and served UPPCL with a legal notice in 1982, however such feeble effort does little to fill the gap between when the cause of action arose and he chose to seek its redressal (in 1990).

10. Seen from a different perspective also, it is clear that the Respondent has shown little concern to the settled legal tenets. Even a civil suit challenging termination of services, if filed by the Respondent, would have undoubtedly been barred by limitation in 1990. In a similar situation where the appellant belatedly challenged the promotion of his junior(s), this Court in [P.S. Sadasivaswamy v. State of Tamil Nadu](#) [(1975) 1 SCC 152], held as follows:

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16. Whilst it is true that limitation does not strictly apply to proceedings under [Art.32](#) or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an

unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester.

Fence - sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In [SS Balu v. State of Kerala](#) [(2009) 2 SCC 479], this Court observed thus:

"17. It is also well - settled principle of law that "delay defeats equity". ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment."

(Underline supplied)

16. In *Mahendra Prasad Agarwal v. Arvind Kumar Singh* [2026 (2) KHC 517], in an appeal filed by the 42 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 alleged contemnor against the order of the High Court directing listing of the contempt petition for framing charges, the Apex Court held thus;

"13. Facts that we have recounted till now reveal a sad reflection, not our laws, but the way we practice our laws and work our judicial remedies. We are not to be mistaken as sermonising, for such episodic disposal could feature even in the practice of Supreme Court. Our endeavour is to ensure that we take notice of it and adopt course correction.

14. There is no doubt about the fact that the "consider jurisprudence", so routinely adopted these days and if we may use the expression - to throw the ball out of the Court, is counterproductive and harms the system.

15. When a claim of a right is legal and justified, relief must follow. The Constitutional or statutory remedies are not intended for academic discourse. If a case deserves relief, it must be granted then and there, unflinchingly if need be. Balancing of equities is not to be confused with avoiding or postponing the relief. These are not matters of law, but of its working and practice. Unlike law and its procedures, good practices that evolve over a period of time are far more precious than written laws, as it is in this practice that we see acceptance and internalization of the spirit of law. It is necessary to recognize, nurture and develop good practices which become habits. These habits come from the 43 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 shared belief, values and attitudes that breathe vitality into rule of law. Legal culture integrates collective beliefs, fostering habits. It is necessary and in fact compelling to keep our remedies simple, effective and efficient".

(Underline supplied)

17. In [Ramsharan v. the Chairman Indian Oil Corporation Ltd.](#), [NCN of LPA-

621/2022:2022/DHC/004940], the High Court of Delhi at New Delhi, in the matter of LPA 621/2022 & CM Appls.46892-94/2022, challenging the judgment of the learned Single Judge of that Court, held that delay and laches on the part of the employee might deprive him of the benefit which had been given to others. Paragraph 6 of that judgment reads thus;

"6. It is well settled that if a person is denied promotion at a time when he is entitled to, he has a right to approach the Court of law to ventilate his grievances, and contend that there was no legal justification to ignore him and the employer could not extend promotional benefits to others while ignoring him. However, it is also equally well settled that the employees cannot approach the Court belatedly to raise stale claims by contending that they were waiting for their representations to be considered. It has been repeatedly held that filing a representation alone will not 44 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 save the party from limitation, and that delay and laches is a relevant factor of Courts of law to determine the question as to whether the claim made by an applicant deserves consideration or not. It is also settled that delay and laches on the part of the employee might 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 [Refer: [State of T.N. v. Seshachalam](#), [(2007) 10 SCC 137]".

(Underline supplied)

18. From the judgments referred to supra, the principles that can be summarised, on the point of filing of writ petitions under [Article 226](#) of the Constitution of India, or approaching the Tribunal for necessary relief under the service jurisprudence are as under;

- 1.The claim of promotion is based on the concept of equality and equitability, but the said relief has to be claimed within a reasonable time.
2. A person aggrieved by non-granting of promotion should approach the Court within a reasonable time. What constitutes a reasonable time would depend upon the facts of each case.
3. The delay which the Court will excuse in approaching the Court is the delay which is caused by the petitioner pursuing 45 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 a legal remedy which is given to him.
4. One cannot sleep over his right and come to the Court without taking into account the time elapsed to unsettle the settled promotion at an unreasonable distance of time, in effect to unscramble a scrambled egg.
5. 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.
7. Fence - sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists

8. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work.

9. If a case deserves relief, it must be granted then and there, unflinchingly if need be. Balancing of equities is not to be confused with avoiding or postponing the relief.

10. Merely by submitting a representation, a stale claim cannot be revived. Life cannot be given to a stale claim by submission of a mere representation.

11. The representation inviting attention to what the aggrieved applicant - public servant perceives is deprivation 46 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 of a legitimate benefit has to be made expeditiously and before accrual of third- party rights, if any. Such a representation could be made even after accrual of third- party rights, but within a reasonable time of the same coming to the notice of the aggrieved applicant - public servant. What would constitute reasonable time would necessarily depend on the facts of each particular case and decided accordingly.

12. A Court or Tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'state' issue or dispute, the court / Tribunal should put an end to the matter and should not direct consideration or reconsideration.

13. If the court or Tribunal deciding to direct 'consideration' without itself examining its merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.

14. If the representation is on the face of it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing 'consideration' of such claims.

15. When a belated representation in regard to a 'stale' or 47 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 '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.

16. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim. 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 'acknowledgment of a jural relationship' to give rise to a fresh cause of action.

19. The claim of the 1st respondent herein is that his claim has a recurring cause of action and hence cannot be treated as a stale claim. Coming to the question what constitutes a continuing wrong, in [S. Tirupathi Rao v. M Lingamaiah](#) [(2024) 20 SCC 188], the judgment of which is relied by the learned Standing Counsel for the University, the Apex Court, in the appeals filed against the common judgment and order of the High Court of Telangana at Hyderabad, held thus;

"56. A caveat needs to be added here. For a "continuing wrong/breach/offence" to be accepted as a ground for 48 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 seeking exemption in an action for contempt, the party petitioning the

court not only has to comprehend what the phrase actually means but would also be required to show, from his pleadings, the ground resting whereon he seeks exemption from limitation. Should the party fail to satisfy the court, the petition is liable to outright rejection. Also, the court has to be vigilant. Stale claims of contempt, camouflaged as a "continuing wrong / breach / offence"

ought not to be entertained, having regard to the legislative intent for introducing S.20 in the Act which has been noticed above. Contempt being a personal action directed against a particular person alleged to be in contempt, much of the efficacy of the proceedings would be lost by passage of time. Even if a contempt is committed and within the stipulated period of one year from such commission no action is brought before the court on the specious ground that the contempt has been continuing, no party should be encouraged to wait indefinitely to choose his own time to approach the court. If the bogey of "continuing wrong/breach / offence" is mechanically accepted whenever it is advanced as a ground for claiming exemption, an applicant may knock the doors of the Court any time suiting his convenience. If an action for contempt is brought belatedly, say any time after the initial period of limitation and years after the date of first breach, it is the prestige of the court that would seem to become a casualty during the 49 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 period the breach continues. Once the dignity of the court is lowered in the eyes of the public by non-compliance its order, it would be farcical to suddenly initiate proceedings after long lapse of time. Not only would the delay militate against the legislative intent of inserting S.20 in the Act (a provision not found in the predecessor statutes of the Act) rendering the section a dead letter, the damage caused to the majesty of the court could be rendered irreparable. It is, therefore, the essence of justice that in a case of proved civil contempt, the contemnor is suitably dealt with, including imposition of punishment, and direction as well is issued to bridge the breach.

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60. The question of the contempt petition being barred by limitation has to be decided keeping [S.20](#) of the Act and R.21 of the Writ Rules in mind together with what constitutes a "continuing wrong/breach/offence". Undisputedly, the contempt petition was instituted on 04th October, 2014, more than 5 (five) years after the order (of which contempt had been alleged) was passed, i.e., on 05th March, 2009. Notably, the appellant had not carried the order dated 05th March, 2009 (disposing of the writ petition) in appeal. Therefore, question of operation of the said order remaining suspended did not arise and the principle embodied in S.15 of the 1963 Act was not attracted. The said order required the appellant to effect 50 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 mutation in terms of the decree of the civil court. No time - frame for compliance of such order having been stipulated by the Single Judge, it would stand to reason that the same required compliance at least by the end of the time - frame stipulated by R.21.

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69. Despite the absence of any pleading as to "continuing wrong / breach / offence", the Single Judge by placing reliance on the decision in [Firm Ganpat Ram Rajkumar v. Kaiu Ram](#), [1989 Supp (2) SCC 418] proceeded to hold that the Tahsildar's inaction constituted a continuing wrong, thereby saving the petition from being barred by limitation. The Division Bench (review) approached the matter in a similar manner, and concluded that the contumacious conduct alleged was in the nature of a continuing wrong.

70. While we are not in disagreement with the view expressed in [Firm Ganpat Ram Rajkumar](#) (supra) because of the special facts and circumstances obtaining therein, the decision of the Division Bench (review) affirming that of the Single Judge is wholly unsustainable in law for a few other reasons."

(Underline supplied)

20. In *S. Tirupathi Rao* [(2024) 20 SCC 188], on the point whether Court can consider the facts beyond pleadings to 51 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 find continuing cause of action in the matter, the Apex [Court further held](#) thus;

"71. First, it is trite that the court cannot traverse beyond the pleadings and make out a case which was never pleaded, such principle having originated from the fundamental legal maxim *secundum allegata et probata*, i.e., the court will arrive at its decision on the basis of the claims and proof led by the parties. The assertion of the contumacious conduct being in the nature of a "continuing wrong / breach / offence" is factual and has to be borne from the pleadings on record. Law is, again, well - settled that when a point is not traceable in the pleas set out either in a plaint or a written statement, findings rendered on such point by the court would be unsustainable as that would amount to an altogether new case being made out for the party. Absent such pleading of there being a "continuing wrong / breach / offence", the finding returned by the Single Judge, since affirmed by the Division Bench (review), cannot be sustained in law.

72. Even if a point of "continuing wrong / breach / offence"

is traceable in the pleadings, the court ought not to accept it mechanically; particularly, in entertaining an action for contempt, which is quasi - criminal in nature, the court should be slow and circumspect and be fully satisfied that there has indeed been a "continuing wrong / breach / 52 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 offence".

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74. While proceeding to examine the nature of the contumacious conduct in question, it is considered apposite to commence the discussion with a reference to Halsbury's Laws of India (Damages; Deeds and Other Instruments), Volume 9, First Edition reading thus:

"(115.032) When cause of action is single and continuing - A cause of action may be either single or continuing. When an act is final and complete and becomes a cause of action for injury to the plaintiff, it is single, arises once and for all and the plaintiff is entitled to sue for compensation at one time, for all past, present and future consequences of the wrongful act. But if there is repetition of a wrongful act or omission, it will comprise a continuing cause of action, and if an action is brought by the plaintiff, it will be restricted to recovery of damages which have accrued up to the date of suit. In such cases the cause of action is said to arise 'de die in diem' (from day to day). It is inaccurate strictly to speak of a 'continuing cause of action', but the phrase refers to a cause of action which arises from the repetition of acts or omissions of the same kind as that for which the action was brought."

75. The English Court of Appeals in *National Coal Board v. Galley*, (1958) 1 All ER 9 distinguished between the two scenarios by observing that neither do repeated breaches 53 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 of continuing obligations constitute a continuing wrong nor intermittent breaches of a continuing obligation; rather there has to be present an element of continuance in both, the breach and the obligation.

76. This Court too, as far back as in 1958, with reference to the [Limitation Act](#) of 1908, discussed in [Balkrishna Savalram Pujari v. Shree Dnyaneshwar Maharaj Sansthan](#) [AIR 1959 SC 798], what would constitute a continuing wrong. The relevant passage reads thus:

"20. xxxx xxxx xxxx S.23 refers not to a continuing right but to a continuing wrong. It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this connection it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury. It is only in regard to acts which can be properly characterised as continuing wrongs that S.23 can be invoked.

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As soon as the decree was passed and the appellants were dispossessed in execution proceedings, their rights had been completely injured, and though their dispossession continued, it cannot be said that the trustees were committing wrongful acts or acts of tort from moment to moment so as to give the appellants a cause of action de die in diem. We think there can be no doubt that where the wrongful act complained of amounts to ouster, the resulting injury to the right is complete at the date of the ouster and so there would be no scope for the application of S.23 in such a case.

xxxx

xxxx "

(emphasis ours)

77. The decision of this Court in [Balkrishna Savalram Pujari](#) (supra) was endorsed by this Court in *M. Siddiq (Ram Janmabhumi Temple - 5 J.) v. Suresh Das* [(2020) 1 SCC 1] wherein,

while concluding that the ouster of shebaitship was a single incident and did not constitute a continuing wrong, this Court further observed as follows:

"343. The submission of xx xx xx is based on the principle of continuing wrong as a defence to the plea of limitation. In assessing the submission, a distinction must be made between the source of a legal injury and the effect of the injury. The source of a legal injury is founded in a breach of an obligation. A continuing wrong arises where there is an obligation imposed by law, agreement or otherwise to 55 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 continue to act or to desist from acting in a particular manner. The breach of such an obligation extends beyond a single completed act or omission. The breach is of a continuing nature, giving rise to a legal injury which assumes the nature of a continuing wrong. For a continuing wrong to arise, there must in the first place be a wrong which is actionable because in the absence of a wrong, there can be no continuing wrong. It is when there is a wrong that a further line of enquiry of whether there is a continuing wrong would arise. Without a wrong there cannot be a continuing wrong. A wrong postulates a breach of an obligation imposed on an individual, where positive or negative, to act or desist from acting in a particular manner. The obligation on one individual finds a corresponding reflection of a right which inheres in another. A continuing wrong postulates a breach of a continuing duty or a breach of an obligation which is of a continuing nature".

(underline supplied)

21. While coming to the judgment relied upon by the learned counsel for the 1st respondent - writ petitioner in [Union of India v. Tarsem Singh](#) [(2008) 8 SCC 648], in a claim raised by the respondent who was invalidated out of the Indian Army, for disability pension, the Apex Court held that normally, a belated service related claim will be rejected on the ground of 56 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 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) and one of the exceptions to the said rule is cases relating to a continuing wrong. Paragraphs 4 and 5 of that judgment read thus;

"4. The principles underlying continuing wrongs and recurring/ successive wrongs have been applied to service law disputes. A 'continuing wrong' refers to a single wrongful act which causes a continuing injury. 'Recurring/successive wrongs' are those which occur periodically, each wrong giving rise to a distinct and separate cause of action. This Court in Balakrishna S.P. Waghmare v. Shree Dhyaneshwar Maharaj Sansthan [AIR 1959 SC 798], explained the concept of continuing wrong (in the context of S.23 of Limitation Act, 1908 corresponding to [S.22](#) of Limitation Act, 1963) :

"It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself 57 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 continues, then the act constitutes a continuing

wrong. In this connection, it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury."

In [M. R. Gupta v. Union of India](#), [(1995) 5 SCC 628], the appellant approached the High Court in 1989 with a grievance in regard to his initial pay fixation with effect from 1.8.1978. The claim was rejected as it was raised after 11 years. This Court applied the principles of continuing wrong and recurring wrongs and reversed the decision. This Court held :

"The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the 58 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc., would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation, the application cannot be treated as time barred"

In [Shiv Dass v. Union of India](#) [(2007) 9 SCC 274], this Court held:

"The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after 59 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

xxxx xxxx xxxx In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years."

5. 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 60 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 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. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence, 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".

22. It is trite that to treat a claim as one having continuous cause of action, it has to be established that the said cause of action was subsisting throughout the period till the representation was filed. In the instant case, as noticed above, the 1st respondent has made his claim for promotion to the post of Lecturer (Selection Grade) only on 13.09.2017 when he had retired on 31.05.2001. 61 WA No.997 of 2021

CNR : KLHC010424062021 2026:KER:75260 In Ext.P9 judgment, the claim of the 1st respondent was not considered on merits. The learned Single Judge in Ext.P9 judgment only directed the authority concerned to consider Ext.P8 representation, without expressing anything on the merits of the claim raised by the 1st respondent. After considering that representation, by Ext.P11 communication dated 09.02.2018, the Joint Director of the University rejected the claim of the 1st respondent. Merely for the reason that the claim of the 1st respondent was considered in Ext.P10 decision, the life cannot be given to the stale claim made by the 1st respondent after more than 16 years of retirement. Moreover, it is pertinent to note that Ext.P10 decision taken by the Registrar of the University in Ext.P8 representation of the 1st respondent is not challenged in the writ petition. The claim of the 1st respondent for promotion to the post of Lecturer (Selection Grade) was finalised with effect from 25.10.1997 by Exts.P6 and P7 orders. Without any objection, the 1st respondent worked in the promoted post and retired from service on 31.05.2001. The claim raised by the 1st respondent for 62 WA No.997 of 2021 CNR : KLHC010424062021 2026:KER:75260 the first time in Ext.P8 representation cannot be treated as a subsisting one at that point of time, to say that he has a continuing cause of action. After several years of retirement, by merely submitting Ext.P8 representation, the 1st respondent cannot revive a stale claim. For all these reasons we have no hesitation to hold that the 1st respondent is not entitled to the reliefs sought in the writ petition. The learned single judge failed to consider these aspects in their proper perspective in the impugned judgment. Therefore, we are of the considered opinion that the impugned judgment of the learned Single Judge is liable to be set aside and the writ petition is liable to be dismissed.

In the result, the writ appeal is allowed by setting aside the impugned judgment dated 31.03.2021 in W.P. (C)No.39 of 2019 and the writ petition stands dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE Sd/-

