
(2025) 09 CAT CK 0464

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 107 Of 2015

Prabha, W/O Late Bhagwan Singh

APPELLANT

Vs

Union Of India Through General Manager Head Quarter North
Central Railway, Subedarganj, Allahabad & Ors.

RESPONDENT

Date of Decision : 18-09-2025

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Railway Servant (Discipline & Appeal) Rules, 1968 — Rule 9, 14(ii), 18

Citation : (2025) 09 CAT CK 0464

Hon'ble Judges : Rajiv Joshi, Member (J); Anjani Nandan Sharan, Member (A)

Bench : Division Bench

Advocate : S. M. Ali, Rachna Dubey

Final Decision : Dismissed

Judgement

Anjani Nandan Sharan, Member (A)

1. Heard Shri S.M. Ali, learned counsel for the applicant and Smt. Rachna Dubey, learned counsel for the respondents.

2. The instant original application has been filed under section 19 of Administrative Tribunal Act, 1985 seeking the following reliefs:-

"(i) To quash the impugned order removal from service dated 26.3.1993 and appellate order dated 24.4.2014 with all consequential benefits.

(ii) To reinstate the applicant in service along with back wages with all consequential benefits.

(iii) To pass any such and further order as deem fit in the facts and circumstances of the case.

(iv) To issue award cost and compensation in favour of applicants."

3. The brief facts of the case, as stated by the applicant in original application

are that the applicant was appointed in Group-D post under the respondent on 11.05.1978. He has worked sincerely without any complaints until 1992. After the death of his young son, he went into depression and was unable to attend work from 06.03.1992. He informed the authorities through a co-worker, and the department was aware of his situation.

3.1 On 23.02.1993, the department issued a major penalty charge sheet for unauthorized absence. The proceedings were conducted ex-parte (without the applicant's participation), and he was removed from service on 26.05.1993 under Rule 14(ii) of the (Discipline & Appeal) Rules, 1968 without any departmental inquiry.

3.2 The applicant has asked all the documents under the Right to Information Act (in short RTI). Initially, the authorities denied the request, stating that the records were more than 20 years old. However, after filing an appeal by the applicant, the documents were finally provided on 02.01.2013. The applicant was shocked to see the removal order passed long ago without any departmental inquiry.

3.3 The applicant has filed an appeal on 28.03.2013, but he was told that the post of appellate authority is running vacant, so the appeal was pending for orders. Thereafter the applicant has filed Original Application No.285/2014 before the court, which was decided on 27.03.2014 with direction to the respondents to decide the appeal through a reasoned and speaking order.

3.4 On 24.04.2014, the applicant has received the impugned appellate order passed by an incompetent authority. The original charge sheet and removal notice were sent to rental address, which the applicant had already vacated. Notices were returned undelivered, and though a newspaper notice was published, no effort was made to serve the notice to the applicant at a new or alternative address, which is clear violation of service rules.

3.5 The removal was done directly under Rule 14(ii), but this was against the Railway Board's circular dated 18.04.1990, which clearly states that in cases of unauthorized absence, Rule 14(ii) should not be applied without holding an inquiry even if ex-parte, therefore, the impugned orders dated 26.03.1993 and 24.04.2014 are liable to be set aside.

4. In the counter affidavit filed on behalf of respondents it has been stated that the applicant has challenged the order dated 26.3.1993 passed by the disciplinary authority in pursuance of the charge sheet dated 22.03.1993 for unauthorized absence of the applicant from due date and the order dated 24.04.2014 passed by authority i.e. the Production Engineer, Jhansi, duly communicated vide letter dated 17.05.2014 passed in pursuance of the order dated 27.03.2014 passed by this Tribunal in OA no. 330/285/2014 (Bhagwan Singh vs. Union of India and others). The applicant has further prayed for his reinstatement along with the back wages with all consequential benefits. As per the provisions contained in Rule 18 of the Railway Servant (Discipline and

Appeal) Rules 1968 only 45 days is provided for making such an appeal. Hence, by this original application at this belated stage, the applicant cannot challenge the order afresh in the present original application. As per the provisions contained in the Discipline and Appeal Rules 1968, the respondents can very well proceed to take action on charge sheet, as admittedly despite the publication of the notice in the daily newspaper since the applicant has not responded and as such appropriate decision was taken by the competent disciplinary authority by passing impugned order dated 26.02.1993. Therefore, the competent authority has not committed any illegality or infirmity as such the original application filed by the applicant is liable to be dismissed.

5. In the rejoinder affidavit filed by the applicant he has reiterated his averments and submitted that he has completely established his case in his favour.

6. Submissions of both the parties have been heard and records have been gone through.

7. It is noted from records that the applicant was issued the chargesheet on 25.08.2014 under Rule 9 of Railway Servant (Discipline & Appeal) Rules 1968 on the following article of charges:-

8. The above chargesheet was pasted at the work place of the applicant in front of two witnesses and the chargesheet was also sent at his home address which was returned undelivered. The notice was also published in the local newspaper on 09.03.1993 asking the applicant to be present at his work place but the applicant neither reported for duty nor sent any intimation. Thereafter the disciplinary authority dismissed the applicant w.e.f. 26.05.1993 under Rule 14(ii) of the Railway Servant (Discipline & Appeal) Rules 1968. The applicant filed his appeal almost after 20 years on 25.03.2013 which was dismissed by the appellate authority on 24.04.2014. The applicant has submitted that all the proceedings have been completed ex-parte behind his back and has questioned his removal from service under section 14(ii) of the Railway Servant (Discipline & Appeal) Rules 1968 without any inquiry. It is a fact that the applicant was dismissed from service on 26.03.1993. The applicant did not do anything for 20 years and filed his appeal on 25.03.2013. The applicant also filed OA No.285/2014, which was disposed of on 27.03.2014 with following directions:-

"In view of the above submission made by the applicant's counsel we direct the Respondent No. 3 to consider and decide the appeal of the applicant dated 28.03.2013 (Annexure A-5) by passing reasoned and speaking order within a period of 02 months from the date of receipt of a certified copy of this order. The applicant is directed to annex copy of his appeal dated 28.03.2013 (Annexure A-5) alongwith certified copy of this order. It is made clear that I have not gone into the merit of the case."

9. Admittedly, the applicant has been dismissed from services in the year 1993 and for the first time, he approached the respondents in 2013 by way of filing departmental appeal. The applicant had not given any satisfactory reason and of

delay in filing the departmental appeal within time before the Appellate Authority. Therefore, the appeal was dismissed by the Appellate Authority on 24.04.2014 being time barred by way of a speaking order. The order of Appellate Authority is quoted as under:-

10. The issue of delay fell for consideration before the Hon'ble Apex Court in case of Chennai Metro Politan Water Supply & Swerage Board and Ors. Vs.T.T. Murali Babu, reported in (2014) 4 SCC 108, wherein it has been held that:-

"Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others? ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

11. In view of the above discussions and taking into consideration the fact that no plausible reason has been given for filing the departmental appeal, against the order of dismissal after a period of 20 years, no interference by this Tribunal is warranted in the matter at this stage and, therefore, the original application is liable to be dismissed.

12. Accordingly, the original application is dismissed. No order as to costs.
13. Pending MAs, if any, stand disposed of.