



2026:AHC:64266-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 4216 of 2026

Ashok Kumar

.....Petitioner(s)

Versus

Union of India and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ravi Prakash Tripathi, Santosh Kumar Upadhyay, Vinay Kumar Dwivedi
Counsel for Respondent(s)	:	A.S.G.I., Shesh Mani Mishra

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This petition is directed against order dated 17.12.2025 passed by Central Administrative Tribunal, Allahabad Bench, Allahabad, whereby the application seeking condonation of delay in Original Application ('O.A.') and O.A. filed by the petitioner, have been dismissed.
2. The O.A. was filed in the year 2023 seeking setting aside of the punishment order dated 13.01.2003 passed by the Disciplinary Authority, whereby the petitioner was dismissed from service as well as the appellate order dated 28.06.2004 by which the punishment order was confirmed.
3. In the application seeking condonation of delay, submissions were made that the appellate order was not made available to the petitioner which resulted in delay in filing the O.A. It was indicated that an F.I.R. was registered against the petitioner in the year 1999 under Sections 409 and 420 IPC, he was convicted by judgement dated 08.09.2016 by the Chief Judicial Magistrate and appeal filed by him was allowed on 20.10.2022 by the Court of Additional Sessions Judge, Meerut, whereafter the present O.A. has been filed.
4. The application seeking condonation of delay was contested by the respondents *inter alia* on the ground that there is no explanation for delay of 19 years in filing the O.A. It was submitted that copy of the appellate order was duly sent to the petitioner and plea raised in this regard, is baseless.

5. The Tribunal, after hearing the parties, came to the conclusion that pendency of criminal proceedings cannot be accepted as a valid ground for not assailing the disciplinary and appellate orders within the prescribed period of limitation, as the petitioner was legally entitled to challenge the punishment order as well as the appellate order independently without waiting for the outcome of the criminal trial.

6. The Tribunal, after referring to judgements in **Chennai Metropolitan Water Supply & Sewerage Board and others Vs. T.T. Murali : (2014) 4 SCC 108** and **Pathapati Subba Reddy and others Vs. Special Deputy Collector : 2024 SCC OnLine SC 513**, dismissed the application seeking condonation of delay and consequently, the unregistered O.A. was also dismissed.

7. Counsel for the petitioner made submissions that the Tribunal was not justified in dismissing the delay condonation application on technicalities. Submissions were made that sufficient reasons were disclosed for the delay in filing the O.A. i.e. pendency of the criminal proceedings, which was not taken into consideration by the Tribunal and, therefore, the order impugned deserves to be set aside.

8. Reliance was placed on **Basanti Prasad Vs. The Chairman, Bihar School Examination Board and others : (2009) 6 SCC 791**, **Jyotsna Kanoongo Vs. Shailendra Kanoongo : SLP (C) No. 21693 of 2025** decided on 15.12.2025, **State of Odisha and others Vs. Managing Committee of Namatara Girls High School : SLP (C) Diary No. 54941 of 2025** decided on 09.02.2026 and **Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others : (1987) 2 SCC 107**.

9. Counsel for the respondents supported the order impugned.

10. We have considered the submissions made by counsel for the parties and have perused the material available on record.

11. From perusal of the record, it is revealed that the petitioner was issued a charge sheet on 15.03.1999 containing five charges pertaining to embezzlement wherein, after due inquiry, the Inquiry Officer found the petitioner guilty. The Disciplinary Authority, after undertaking due

procedure, passed the order of dismissal dated 13.01.2003. Aggrieved of the order of dismissal, appeal was filed, which came to be dismissed by order dated 28.06.2004.

12. The petitioner did not question the validity of the orders passed by the Disciplinary/Appellate Authority for all these years.

13. For the allegations of embezzlement, an F.I.R. was also lodged against the petitioner, which initially resulted in his conviction by the Chief Judicial Magistrate on 08.09.2016. However, in appeal, by giving benefit of doubt, he was acquitted by the Additional Sessions Judge on 20.10.2022, whereafter in 2023, the O.A. was filed seeking to question the validity of the orders passed by the Disciplinary Authority and the Appellate Authority, the foundation being acquittal in the criminal case.

14. From the above sequence of events, it is apparent that the petitioner was proceeded in the departmental inquiry independent of the criminal proceedings which inquiry culminated in order of dismissal. The petitioner promptly filed appeal, which also came to be dismissed.

15. Once the order of punishment by the Disciplinary Authority was passed after full length departmental inquiry independent of the criminal charges and against the said order of the Disciplinary Authority, the statutory appeal came to be dismissed, the petitioner was required to question the validity of the said orders immediately thereafter and there was apparently no occasion for him to wait for the decision in the criminal trial/appeal. Instead the petitioner waited for the disposal of the criminal trial which took twelve years from the date of dismissal and he was convicted in the year 2016. However, the appeal was decided in the year 2022 and he was given benefit of doubt and was acquitted of the criminal charge.

16. The acquittal from the criminal charge by itself does not give any fresh cause of action to the petitioner in a case where the disciplinary proceedings/appeal have been decided independent of the criminal charge. Situation would be different in a case where the dismissal order is solely based on conviction and in appeal, the conviction is overturned, which is not the case here.

17. In those circumstances, it cannot be said that there was any justification for delay of over 19 years in questioning the validity of the orders passed by the Disciplinary Authority and the Appellate Authority. Mere acquittal in a criminal case, by itself, cannot be a ground to question the validity of disciplinary proceedings, inasmuch as the level of proof in both the forums is different wherein for a criminal case, proof beyond reasonable doubt is required and in case of disciplinary proceedings, the same is preponderance of probability and in those circumstances, the plea sought to be raised for condonation of delay has rightly been negated by the Tribunal.

18. So far as the judgement cited by counsel for the petitioner in the case of **Basanti Prasad (supra)** is concerned, in the said case, Hon'ble Supreme Court has clearly laid down that a delinquent employee should not be permitted to revise a stale case. However, as in the said case, the delinquent was dismissed in view of order of conviction passed by the Magistrate and the said order of the Magistrate was set aside by a Superior Court, the Supreme Court held that approaching the Court after decision on the appeal was not hit by delay and laches. As noticed herein before, the dismissal of the petitioner did not take place on account of the conviction by the Magistrate, inasmuch as the dismissal took place based on disciplinary proceedings in the year 2003 and the conviction took place in the year 2016, as such, the said judgement has no application to the facts of the present case.

19. In the case of **Jyotsna Kanoongo (supra)**, the Court observed that neither the length of delay nor the number of days of delay is relevant if the cause shown is sufficient. However, in the present case, the cause shown i.e. pendency of the criminal proceedings has been found to be not sufficient looking to the fact that the disciplinary proceedings were independent of the criminal charge and, therefore, the said judgement also has no application to the present case.

20. The judgement in the case of **State of Odisha (supra)**, is against the petitioner which essentially has dealt with the delay on part of the State authorities.

21. The judgement in the case of **Katiji (supra)**, also has no application to the present case, as discussed herein before as the reason for the delay has no relation whatsoever with the subject matter of the challenge. The acquittal of the petitioner cannot and does not give rise to a fresh cause of action to the petitioner in a case where disciplinary proceedings have taken place independent of the criminal charges.

22. In view of the above discussion, we do not find any reason to interfere with the order passed by the Tribunal. There is no substance in the writ petition. The petition is, therefore, **dismissed**.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

March 26, 2026

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