



2026:DHC:7191-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 25.08.2026# **CNR No. DLHC010400062026**+ **LPA 669/2026****R K GAUTAM**

.....Appellant

Through: Mr. Siddharth Gautam and Mr.
Satyam Chauhan, Advocates.

versus

INDIAN OIL CORPORATION LIMITED

.....Respondent

Through:

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (Oral)****CM APPL Nos. 57531/2026 and 57532/2026 (Exemptions)**

1. Exemptions are allowed, subject to all just exceptions.
2. The Applications stand disposed of.

CM APPL Nos. 57530/2026 and 57533/2026 (Condonation of delay)

3. The present Applications have been filed on behalf of the Appellant seeking condonation of delay of 74 days in filing and 14 days in re-filing the present Appeal respectively.
4. Having regard to the averments made in the Applications, the same are allowed. The delay of 74 days in filing and 14 days in re-filing the present Appeal is hereby condoned.
5. The Applications stand disposed of.

**LPA 669/2026**

6. The present *intra court* Appeal has been preferred by the Appellant against the judgment dated 20.03.2026 (“**Impugned Judgment**”) passed in W.P.(C) 12283/2019 (“**Writ Petition**”) filed by the Appellant, whereby learned Single Judge dismissed the Writ Petition as being bereft of merits.

7. The brief facts germane to the present Appeal are hereunder:

7.1. The Appellant joined the services of the Respondent on 09.04.1980 as Pharmacist Compounder-cum-Dresser in Grade IV (“**Pharmacist**”) at the Mathura Refinery, Mathura, Uttar Pradesh (“**Refinery**”).

7.2. On 23.10.1989, an incident occurred at the Refinery involving certain pharmacists, including the Appellant, in relation to the fixation of the duty rota by the doctors of the hospital operated by the Respondent (“**1989 Incident**”). Thereafter, the Respondent filed complaint pursuant to which FIR No. 101/89 dated 24.10.1989 (“**FIR**”) was registered against the Appellant and 17 others under Sections 147, 149, 332, 336, 337, 342 and 504 of the Indian Penal Code, 1860 (“**IPC**”).

7.3. Subsequently, by office order dated 27.10.1989 (“**Dismissal Order I**”), the then Executive Director of the Refinery dismissed the Appellant from service. In 1990, the Appellant instituted CWP No. 3220/1990 before this Court, assailing Dismissal Order I.

7.4. The FIR came to be registered as Case No. 1125/2000 before learned Chief Judicial Magistrate, Mathura, in which the Appellant was acquitted of the charges under Sections 147, 149,



- 332, 336, 337 and 342 of the IPC, but convicted him under Section 353 of the IPC and imposed a fine of ₹250/- vide order dated 22.05.2001. Aggrieved thereby, the Appellant preferred Criminal Appeal No. 32/2001 before learned Sessions Judge, Mathura. By order dated 25.02.2002 (“**Acquittal Order**”), learned Sessions Judge, Mathura acquitted the Appellant of the charge under Section 353 of the IPC.
- 7.5. By judgment dated 24.09.2002 passed in CWP No. 3220/1990 (“**Quashing Order**”), this Court quashed Dismissal Order I on the ground that it had been passed without jurisdiction. Pursuant thereto, the Appellant was reinstated in service on 10.10.2002.
- 7.6. Thereafter, the Respondent issued chargesheet dated 24.12.2002 (“**Chargesheet**”) to the Appellant in respect of the 1989 Incident. The Appellant submitted his reply thereto on 10.01.2003, denying the charges and placing reliance on the Acquittal Order
- 7.7. In 2003, the Appellant filed W.P.(C) 6677/2003 before this Court, seeking back wages for the period during which he remained dismissed pursuant to Dismissal Order I. During the pendency of the said writ petition, the Respondent initiated a departmental enquiry on the basis of the Chargesheet, which commenced on 06.07.2004.
- 7.8. By order dated 18.01.2006, this Court disposed of W.P.(C) 6677/2003 and directed the Respondent to consider the Appellant’s case in accordance with the applicable rules and policies.



- 7.9. Upon conclusion of the departmental enquiry, the Enquiry Officer submitted his report dated 31.10.2006 (**“Enquiry Report”**). Acting thereon, the Respondent, by office order dated 31.07.2008 (**“Dismissal Order II”**), again dismissed the Appellant from service with immediate effect and recorded that he would not be entitled to any payment or benefit beyond what had already been paid to him as on 27.10.1989.
- 7.10. By letter dated 11.08.2008 addressed to the Respondent, the Appellant tendered an unconditional apology and sought reconsideration of his case. He thereafter submitted a mercy petition dated 22.01.2009 to the Director (Refineries). By letter dated 23.07.2009, the Respondent accepted the apology and offered re-employment as Pharmacist, subject to conditions including waiver of wages / benefits for the dismissal period and an undertaking not to raise monetary claims before any Court, which conditions were accepted by the Appellant by letter dated 25.07.2009.
- 7.11. A further offer of employment dated 31.08.2009 placed the Appellant on probation. The Appellant accepted employment as Pharmacist at the Vadodara Refinery, Gujarat, with effect from 02.09.2009 and continued in service until his superannuation on 30.06.2016.
- 7.12. By letter dated 25.08.2016, the Appellant intimated the Respondent of his retirement and requested issuance of a Post-Retirement Medical Benefit (**“PRMS”**) card. By reply dated



- 07.09.2016, the Respondent informed the Appellant that he was not eligible for PRMS benefits, as he had not rendered fifteen years of continuous service, but had served in three distinct spells.
- 7.13. *Vide* Right to Information Application dated 01.07.2017 (“**RTI Application**”), the Appellant sought information concerning employees who were availing PRMS benefits without having completed fifteen years of continuous service. In reply dated 03.08.2017 (“**Reply**”) to the RTI Application, the Respondent disclosed that one Mr. Vindeshwari Singh, a co-accused in the FIR, was availing such benefits despite not fulfilling the requirement of fifteen years of continuous service. The Appellant thereafter made a representation dated 05.05.2018 to the then Minister of Petroleum and Natural Gas, followed by a legal notice dated 08.09.2019 to the Respondent, which remained unanswered.
- 7.14. In 2019, the Appellant filed the Writ Petition before this Court seeking grant of PRMS benefits from the Respondent. In the said Writ Petition, this Court, by order dated 19.07.2022 (“**Interlocutory Order**”), directed the Chairman of the Respondent to personally examine the matter and take a decision within two weeks, to be placed on record along with the counter affidavit.
- 7.15. By order dated 16.08.2022, the Executive Director, Internal Committee, Human Resources of the Respondent held that the Appellant’s earlier period of service could not be taken into account for extending any benefit. *Vide* the Impugned Judgment,



learned Single Judge dismissed the Writ Petition, holding that the Appellant's earlier and subsequent periods of service could not be aggregated for the purposes of a scheme requiring fifteen years of continuous service. Aggrieved thereby, the Appellant has preferred the present Appeal.

8. Learned Counsel for the Appellant submitted that:

- 8.1. The conditions imposed *vide* letter dated 23.07.2009, namely, the waiver of wages and benefits for the period of dismissal and the undertaking not to institute monetary claims before any Court, operated as an impermissible restraint on legal proceedings and were, therefore, void under Section 28 of the Indian Contract Act, 1872 ("**Contract Act**"). It was further submitted that the subsequent offer dated 31.08.2009 introduced a stipulation of fresh employment with probation, thereby creating deliberate ambiguity with the object of defeating continuity of service.
- 8.2. Since Dismissal Order I was quashed *vide* the Quashing Order as being without jurisdiction, the intervening period was required to be treated in continuity with the Appellant's actual service, which, if aggregated, exceeded the qualifying period of fifteen years prescribed for PRMS benefits.
- 8.3. In the Reply to the RTI Application, the Respondent disclosed that Mr. Vindeshwari Singh, a co-accused in the FIR who had rendered lesser service, had nevertheless been extended PRMS benefits. The denial of similar benefits to the Appellant was,



therefore, discriminatory, arbitrary, and violative of Article 14 of the Constitution of India, 1950 (“**Constitution**”).

- 8.4. Dismissal Orders I and II were alleged to have been selectively directed against the Appellant, whereas similarly situated employees were merely censured. It was further contended that the Enquiry Report stood vitiated on account of the refusal to admit the acquittal and quashing judgments and the denial of an opportunity to examine witnesses.
- 8.5. Learned Single Judge failed to give due effect to the earlier Interlocutory Order, which directed that a compassionate view be taken of the Appellant’s service rendered between 1980 and 2008. The said direction was disregarded by the Respondent *vide* order dated 16.08.2022.
- 8.6. The Appellant and his spouse, both stated to be senior citizens and in poor health, were being denied PRMS benefits at an advanced stage of life, in violation of their rights under Articles 14 and 21 of the Constitution.
9. We have heard learned Counsel for the Appellant and have carefully perused the material placed on record.
10. The principal issue that arises for consideration is whether the Appellant’s service, upon his re-employment with effect from 02.09.2009, can be treated as continuous with his earlier spells of service rendered between 1980 and 2008, so as to confer upon him entitlement to PRMS benefits under the scheme, which prescribes a minimum qualifying requirement of fifteen years of continuous service.



11. Insofar as the Appellant's contention that the conditions imposed *vide* letter dated 23.07.2009 are void under Section 28 of the Contract Act, being in restraint of legal proceedings, we are of the view that learned Single Judge correctly appreciated that the said conditions did not arise in isolation, but were the direct consequence of the Appellant's own mercy petition, wherein he accepted his role in the 1989 Incident and sought re-entry into service on terms falling short of full restoration. Having accepted the said conditions in writing, acted upon them, and continued in service on that basis for nearly seven years until his superannuation without demur or challenge, the Appellant cannot, at this belated stage, be permitted to resile from the consequences of an arrangement voluntarily accepted by him and from which he derived continued benefit.

12. As regards the submission that the period of dismissal ought to be reckoned in continuity with the Appellant's service on the ground that Dismissal Order I was quashed for want of jurisdiction, we are unable to accept the same. The Quashing Order did not, by itself, restore the Appellant's service for all purposes. This very issue was considered by this Court in W.P.(C) 6677/2003, wherein it was held *vide* order dated 18.01.2006 that the Appellant had no absolute right to back wages for the said period, and that the matter was required to be considered by the Respondent in accordance with its applicable rules, policies, and practices.

13. Thereafter, this Court expressly left it open to the Respondent to proceed departmentally against the Appellant, pursuant to which a fresh enquiry was conducted, culminating in Dismissal Order II. The Appellant did not rejoin service pursuant to any judicial direction restoring his earlier



position, but he rejoined only after tendering an unconditional apology and seeking mercy.

14. The offer of employment dated 31.08.2009, which was accepted by the Appellant without protest, expressly recorded that the arrangement was in the nature of fresh employment and that his past service would not be counted for any purpose whatsoever. The Appellant rejoined service and continued thereunder for nearly seven years on this express understanding. In these circumstances, it is not open to him to contend that the intervening period ought to be treated as continuous service.

15. Consequently, the only period of continuous service available to the Appellant for the purposes of the PRMS benefits is from 02.09.2009 to 30.06.2016, which admittedly falls short of the qualifying requirement of fifteen years prescribed thereunder. Learned Single Judge, in our considered view, rightly held that the earlier and later spells of service could not be aggregated for the purposes of a scheme which expressly mandates fifteen years of continuous service.

16. Insofar as reliance is placed on the case of Mr. Vindeshwari Singh, a co-accused in the FIR, to allege discrimination violative of Article 14 of the Constitution, we find no merit in the said submission. The Appellant's entitlement to PRMS benefits must be examined with reference to the terms of his own re-employment and the eligibility conditions of the scheme, and not by reference to the manner in which the case of another employee may have been dealt with by the Respondent, particularly where the Appellant's own terms of re-employment dated 02.09.2009 expressly exclude aggregation of his earlier service.



17. The submissions alleging *mala fides* in Dismissal Orders I and II, as well as infirmities in the Enquiry Report, also do not advance the case of the Appellant. Dismissal Order I had already been quashed. Dismissal Order II was never assailed by the Appellant before any competent forum. Instead, the Appellant elected to seek condonation thereof through a mercy petition and thereafter accepted re-employment on specific terms. Having adopted this course, it is no longer open to him to question the legality of the very enquiry and dismissal which he sought to have condoned rather than set aside. Likewise, the Appellant's acquittal *vide* the Acquittal Order arising from the 1989 Incident does not, by itself, vitiate the departmental action, since criminal proceedings and disciplinary proceedings operate in distinct fields and are governed by different standards of proof.

18. As regards the Interlocutory Order, we find that the same was passed at an interlocutory stage while granting time to the Respondent to file its Counter Affidavit. Although it observed that the Respondent ought to take a compassionate view of the Appellant's service between 1980 and 2008, it did not, and could not, finally determine the Appellant's entitlement to PRMS benefits. The direction was confined to reconsideration at the level of the Chairman of the Respondent, which was duly complied with *vide* order dated 16.08.2022. The Interlocutory Order cannot, therefore, be construed as having concluded the issue in favour of the Appellant.

19. While we are mindful of the advanced age and medical condition of the Appellant and his spouse, the express terms of engagement, having been voluntarily accepted and acted upon by the Appellant for several years, remain binding upon him. Such considerations cannot override or dispense



with the specific eligibility requirement of fifteen years of continuous service prescribed under the PRMS scheme. The plea founded on Articles 14 and 21 of the Constitution, therefore, cannot exempt the Appellant from compliance with the eligibility conditions stipulated under the PRMS scheme.

20. Accordingly, we are of the considered view that the Appellant has failed to make out any ground warranting interference with the Impugned Judgment dated 20.03.2026. The Appeal is, therefore, dismissed. The pending Applications, if any, stand disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

AUGUST 25, 2026

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