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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 7399/2016, CM No.30358/2016**  
**VIDYA NAND**

..... Petitioner

Through: Mr. Shankar Kr. Jha, Adv.

versus

**UNION OF INDIA & ORS**

..... Respondents

Through: Mr. Jagjit Singh, Adv. with Mr. Preet  
Singh & Ms. Kiran Kaushik, Advs.

**CORAM:**

**HON'BLE MS. JUSTICE INDIRA BANERJEE**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

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**22.08.2016**

**CM No. 30358/2016**

Exemption allowed subject to all just exceptions.

Application stands disposed of.

**W.P.(C) 7399/2016**

1. The petitioner has filed the writ petition praying for orders on the respondents to grant back wages to the writ petitioner for the period from 1<sup>st</sup> June, 1991 to 31<sup>st</sup> May, 1994, as also interest, promotions, seniority and other consequential reliefs. Learned counsel appearing on behalf of the writ

petitioner does not press the prayers for restoration of seniority, promotions, interest etc.

2. It appears that the petitioner was served with a charge sheet way back on 7<sup>th</sup> November, 1990 under Rule 153 of the Railway Protection Force Rules, 1987 for the gross misconduct of over staying leave from 4<sup>th</sup> February, 1990 to 27<sup>th</sup> September, 1990 i.e 236 days, after availing himself of casual leave from 1<sup>st</sup> February, 1990 to 3<sup>rd</sup> February, 1990. After an inquiry, in which the writ petitioner was found guilty, the writ petitioner was awarded the punishment of removal from service with effect from 1<sup>st</sup> June, 1991.

3. Against the order of punishment, the writ petitioner filed an appeal, which was disposed of, by an order dated 20<sup>th</sup> March, 1992, the relevant portion, whereof is extracted herein below:-

*“I have scrutinized entire/documents available in DAR Case file including the points put forth by the petitioner through his appeal in question and find that charge of absence leveled against him proved but simultaneously I feel that the punishment appealed against is too harsh a punishment in face of leveled against the petitioner. I therefore modify the punishment of removal from the service to that of W.I.P for three years and re-instatement Ex. Constable in service.*

*The period spent out of service is treated as the kind of leave due to the appellant. He is informed accordingly.”*

4. It appears that the period spent out of service was directed to be treated as “kind of leave” due to the appellant. There was no direction to treat the leave, as leave with pay.

5. Learned counsel submits that he shall not press the prayer for back wages for the period, till the date of the appellate order of 20<sup>th</sup> March, 1992 modifying the order of punishment. He submits that even though, the appellate order was passed on 20<sup>th</sup> March, 1992 by the Appellate Authority, directing reinstatement of the writ petitioner, the writ petitioner was not actually reinstated till 31<sup>st</sup> May, 1994. He submits that the petitioner should, at least be paid his salary for the period till 31<sup>st</sup> May, 1994.

6. Even after May/June, 1994, over 22 years have elapsed. It is submitted that the writ petitioner had made a representation on 30<sup>th</sup> January, 1995 claiming back wages. Since then, the petitioner has been running from pillar to post but the petitioner has not been paid for the period from 1<sup>st</sup> June, 1991 to 31<sup>st</sup> May, 1994. It, however, appears that a writ application filed by the petitioner was disposed of, by an order dated 14<sup>th</sup> October, 1996, the operative part, whereof is set out herein below:-

*“In the presence of the above facts, the petition is disposed of with the following directions:-*

*(i) that within two weeks from the date of passing of this order the petitioner shall deliver another copy of representation dated the 30<sup>th</sup> January, 1995 alongwith a copy of order of this Court in the office of respondent No.2 (Director General, Railway Protection Force, Railway Bhawan, New Delhi) and respondent No.2 or any other authority under respondent No.2, competent to take decision, shall thereafter within a period of six weeks, consider and finally dispose of abovesaid representation of the petitioner dated the 30<sup>th</sup> January, 1995. The decision taken on the abovesaid representation of the petitioner shall be communicated to the petitioner under acknowledgement by the abovesaid authority, and*

*(ii) that after the decision, taken on the abovesaid representation of the petitioner in the abovesaid manner; if any of the grievances of the petitioner still survives, the petitioner is given liberty to approach the appropriate forum for the aforesaid purpose.”*

7. There is an averment, made by the writ petitioner that after obtaining the aforesaid order dated 14<sup>th</sup> October, 1996, he sent a copy of the earlier representation to the concerned respondent but no steps were taken to dispose of the same. Learned counsel appearing on behalf of the respondents, however, submits that the order was not even communicated and they are not aware of, whether any copy of the representation was

forwarded to the respondent No.5, as alleged. The fact remains that even after obtaining an order from this Court, and allegedly resending a copy of the old representation, the writ petitioner did absolutely nothing for 22 odd years. The reasons for the delay, as explained in the petition are:-

*“2.17 That petitioner got busy with his own life, family, growing children and extended responsibility of dependant mother and father, the subject matter got somewhere out of mind and he was unable to take any legal action against the Respondent as was needed by any prudent person.”*

8. It is patently clear that the petitioner was not seriously interested in pursuing the matter. After 22 odd years, he rose from his slumber. It is not for this Court to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India to come to the aid of indolent litigants, who have slept over their rights for decades.

9. We are constrained to reject the petition. No Costs.

**INDIRA BANERJEE, J**

**V. KAMESWAR RAO, J**

**AUGUST 22, 2016/ak**