

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.2173 OF 2018

Rajesh J. Sonawane .. Petitioner.
v/s.
Union of India & Others .. Respondents.

Mr. Ramesh Ramamurthy i/b. Mr. Saikumar Ramamurthy, for the
Petitioner.

Mr. Abhay Kulkarni, for the Respondent No.2.

**CORAM: A.S.OKA &
M.S.SANKLECHA, JJ.**
DATE : 8th APRIL, 2019.

P.C:-

We may note that we have not taken into consideration the affidavit in reply filed by the Petitioner as it reiterates the correctness of the findings recorded by the Tribunal.

2 The challenge in this Petition under Article 226 of the Constitution of India is to the order dated 24th April, 2017 passed by the Central Administrative Tribunal (in short ‘ the Tribunal’) by which the original application filed by the Petitioner was dismissed.

3 The Petitioner was an employee of the Central Railway. In a surprise check conducted on 11th May, 1996 by the Railway Officers at Nerul Booking Office, total 13,898 fake seasons tickets were found in two

bundles of value of Rs.1,89,847.50/-. The disciplinary proceedings were initiated against the Petitioner by issuing a show cause notice. Charge sheet was served to the Petitioner on 22nd November, 1996. On 4th February, 2002, Enquiry Officer submitted a report recording that the charge against the Petitioner has been established. On the basis of representation made by the Petitioner, there was a remand to the Enquiry Officer. After remand, on 20th March, 2004, enquiry report was submitted on the basis of which, on 17th May, 2004, punishment of removal was imposed on the Petitioner.

4 On 22nd September, 2004, an appeal preferred by the Petitioner against the order of removal was dismissed. A revision petition was filed by the Petitioner which was also dismissed by an order dated 7th April, 2005. On 14th October, 2011, the learned Metropolitan Magistrate's 49th Court at Vikhroli passed an order of acquittal in criminal case filed on the same incident. On the basis of the order of the acquittal, on 23rd January, 2012, a representation was made by the Petitioner to the reviewing Authority. The said representation was rejected by a communication dated 28th August, 2013. Thereafter, the original application was filed on 12th November, 2013 before the Tribunal by the Petitioner wherein the prayer for quashing the charge sheet issued on 22nd November, 1996 and subsequent orders of the Disciplinary Authority, Appellate Authority and Revisional Authority passed on 17th May, 2004, 22nd September, 2004 and 7th April, 2005 respectively. The original application was dismissed by the impugned order of the Tribunal.

5 The submission of the learned Counsel appearing for the Petitioner is that if the Tribunal was of the view that the original

application was bared by limitation, it ought to have granted time to the Petitioner to make an application for condonation of delay. He submitted that the Petitioner is a victim of wrong or incorrect advise. He submitted that merits of the drastic order of removal from employment ought to have gone into by the Tribunal.

6 We have considered the submissions. The charge against the Petitioner was that he was involved in printing and selling of fake season tickets. The order of the Disciplinary Authority has attained finality. The Petitioner never challenged the order of the Disciplinary Authority which was confirmed by the Revisional Authority on 7th April, 2005. The said orders were challenged for the first time on 12th November, 2013 by filing the original application.

7 Moreover, the perusal of the order of acquittal shows that it is not honourable acquittal. The order of the Criminal Court shows that the prosecution did not examine the witnesses such as the witnesses from the raiding party, panch witnesses etc.

8 The Tribunal in the impugned order has recorded a finding that the acquittal in Criminal Case, as in the fact of the case, does not confer any right to succeed in the disciplinary proceedings. Hence, there is no merit in the Petition.

9 Accordingly, this **Petition** under article 226 of the Constitution of India, is **rejected**.

(M.S.SANKLECHA,J.)

(A.S.OKA,J.)