



2025:DHC:878-DB



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

Date of Decision: 11.02.2025

+ W.P.(C) 1636/2025

RAKESH KUMAR MISHRA

.....Petitioner

Through: Mr. Aditya Pratap Singh, Mr.
Mayank Sapre and Mr. Dheeraj
Kumar, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ankit Verma, SPC along
with Mr. Archana Kumari, Adv.
for R-1 to 6.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. The present petition has been filed by the petitioner, praying for the following relief:

*“a) Issue a writ of certiorari or any other appropriate writ, order or direction thereby calling for records from the Respondents and quashing the order of dismissal dated 27.06.2011 (Annexure: P-5), the appellate order dated 13.09.2011(Annexure: P-7), and the revision order dated 15.02.2012 (Annexure: P-8), collectively confirming Writ Petitioner’s dismissal from service;
b) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the Respondents to reinstate the Writ Petitioner in service with all consequential benefits, including back wages; and/or
c) Issue any other writ, direction or order, which this Hon’ble court may deem fit and proper under the facts and circumstances of the case.”*



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2. A brief narrative of facts is that the petitioner was enrolled in the Railway Protection Force ('RPF') as a Constable in the year 1989 and was transferred to the Delhi Cantonment in the year 1990.

3. The petitioner, on 21.04.2010, was served a Charge-Sheet for a minor penalty under Rule 158 of the Railway Protection Force Rules, 1987 (in short, 'the Rules'). On conclusion of the departmental proceedings, the Assistant Security Commissioner, Railway Protection Force, Headquarters, New Delhi, imposed a minor penalty of withholding the next increment of the petitioner for six months, *vide* the Order dated 15.07.2010.

4. Meanwhile, the wife of the petitioner filed a maintenance case under Section 125 of the Code of Criminal Procedure, 1973, bearing No. 135(M) of 2010, before the learned Principal Judge, Family Court, Patna. The petitioner's wife also filed an application with the Director General of Police, RPF, Northern Railways, requesting the transfer of her husband from the Delhi Cantonment to Mughal Sarai or Varanasi Junction.

5. On 06.09.2010, a Charge-Sheet was issued against the petitioner for the major penalty under Rule 153 of the Rules by the Assistant Security Commissioner, Railway Protection Force, Headquarters, New Delhi. Shri D.V. Singh, Inspector In-charge was nominated as the Inquiry Officer and the following charge was framed against the petitioner:

"He is accused of having a second wife in an illegal marriage with widow Pramod Devi in the year 2005, from whom he has a son, Puneet Kumar, who is 4.5 years old."



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*Therefore, he has violated Rule 21(2) of the
Railways Service Conduct Rules, 1966."*

6. The petitioner appeared before the Inquiry Officer and pleaded 'Guilty' to the Charge framed against him on 27.09.2010. In view of the petitioner's admission of guilt, on 04.11.2010, the Inquiry Officer closed the proceedings and submitted the Departmental Action Report (DAR) to the Disciplinary Authority. The Disciplinary Authority, however, on reviewing the DAR, found that the proceedings were not conducted in accordance with Rule 153 of the Rules and directed that the same be carried out as per the Rules.

7. Thereafter, the Inquiry Officer again initiated a Departmental Inquiry and recorded the evidences of the witnesses in the presence of the petitioner. *Vide* the letters dated 21.04.2011 and 29.04.2011, the petitioner was directed to submit his written statement along with a list of witnesses he wished to produce in his defense. The petitioner, on 02.05.2011, pleaded 'Guilty' to the Charges framed against him and relied on the statement given during the previous inquiry.

8. The Inquiry Officer submitted his report to the Disciplinary Authority, finding the Charges to be proven true.

9. The petitioner, on receiving the Inquiry Report, submitted his reply to the Disciplinary Authority on 03.06.2011. The Assistant Security Commissioner, Railway Protection Force, Headquarters, New Delhi, being the Disciplinary Authority, forwarded the case of the petitioner to the Senior Divisional Security Commissioner, RPF, New Delhi for the imposition of punishment.



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10. The Senior Divisional Security Commissioner, RPF, New Delhi, *vide* the Order dated 27.06.2011, held the petitioner 'Guilty' for the Charges levelled against him, and awarded him the punishment of 'dismissal from service' with immediate effect.

11. Aggrieved by his dismissal from service, the petitioner preferred an Appeal under Section 9 of the Railway Protection Force Act, 1957 (in short, 'the Act') before the Additional Chief Security Commissioner, RPF, Northern Railways.

12. The Appellate Authority, *vide* the Order dated 13.09.2011, agreeing with the Order passed by Disciplinary Authority, dismissed the appeal filed by the petitioner.

13. Remaining aggrieved, the petitioner preferred a Revision Petition before the Chief Security Commissioner, RPF, Northern Railways, which also came to be dismissed *vide* the Order dated 15.02.2012.

14. The petitioner thereafter made two representations to the Director General of Police, RPF, dated 28.02.2012 and 15.02.2024, requesting for a sympathetic review and revision of the punishment awarded to him. Since these representations came to no avail, the petitioner has invoked the writ jurisdiction of this Court.

15. The learned counsel for the petitioner submits that penalty of dismissal from service is completely disproportionate to the offence for which he has been found guilty by the respondents. The Impugned Order of dismissal from service, as upheld by the Appellate and Revisional Authority, has completely disregarded the provisions of the Rules as also the Act.



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16. While drawing our attention to Rule 156 of the Rules, the learned counsel submits that the said rule lays down the circumstances under which the Disciplinary Authority can award the punishment of dismissal from service. The learned counsel submits that the proposed punishment must be commensurate with the gravity of the misconduct and a case must be made for whether the punishment inflicted is absolutely necessary. He submits that the Disciplinary Authority also must ensure that the misconduct falls within the six categories of Rule 156, which is not the case in the present petition.

17. He submits that the petitioner had served for twenty-one years with the RPF, and considering the nature of the offence, the penalty seems to be excessively harsh. He submits that the petitioner has not been employed since his dismissal and is in need of medical as well as financial assistance. In these circumstances, he prays that his case be considered compassionately.

18. The learned counsel for the respondents, who appears on advance notice, submits that the petitioner cannot be permitted to challenge the termination of his service after a period of more than 13 years, without any cogent reason for the inordinate delay.

19. He submits that even otherwise, the punishment of dismissal from service has rightly been awarded to the petitioner. Considering the gravity of the offences, the Disciplinary Authority, Appellate Authority, and the Revisional Authority have rightly awarded and upheld the punishment of dismissal from service.

20. We have considered the submissions made on behalf of the parties and have perused the record.



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21. We, at the outset, may consider the plea of the respondents that whether the delay in preferring the petition has been explained satisfactorily by the petitioner, in order to negate the objection of delay and laches.

22. While considering the contention of delay and laches in filing the present petition, reference is made to the case of **Karnataka Power Corpn. Ltd. v. K. Thangappan and Another**, (2006) 4 SCC 322, wherein the Apex Court was of the opinion that:

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite part. ...”

23. The Supreme Court in the case of **Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu**, (2014) 4 SCC 108, has held that:

“16. 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 scrutinise whether the lis at a belated stage should be entertained



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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. ...”

24. From a perusal of the record, it is evident that on the basis of the finding of the Departmental Inquiry, the petitioner was awarded the penalty of dismissal from service on 27.06.2011, which was further upheld by the Appellate Authority on 13.09.2011, and by the Revisional Authority, on 15.02.2012. Evidently, the petitioner has approached this Court thirteen years after the Order of the Revisionist Authority attained finality.

25. When dealing with the issue of delay and laches, this Court must ensure that when a litigant is approaching the Court at a belated stage, it must not be at his/her own leisure and the Court must examine whether such a case is to be entertained or not.

26. No attempt has been made by the petitioner so as to explain why he chose to sleep over his right to approach this Court for so long if he was made to suffer a major penalty of ‘dismissal from the service’, allegedly being disproportionate to the misconduct for which he was found guilty. In fact, such an act amounts to abandonment of the right by the petitioner.

27. As far as the two representations made by the petitioner to Director General of Police, RPF, dated 28.02.2012 and 15.02.2024,



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are concerned, it is noted that the second representation itself has been filed after an inordinate and unexplained delay of 12 years.

28. It is expected of a party invoking the extra-ordinary discretionary jurisdiction of the Court under Article 226 of the Constitution of India, to approach the Court within a reasonable timeframe, even though, no fixed time frame is prescribed for filing a writ petition. It is a settled position in law that litigants must be diligent in exercising their rights within a reasonable period, as delay defeats equity. Delay and laches is by itself a ground to refuse to entertain the right to invoke writ jurisdiction, irrespective of the merit of his claim. If a person chooses to sleep on his rights for long period of time, he/she thereby indicates that he/she is not interested in claiming that relief.

29. In view of the foregoing, considering the lack of any compelling justification for the undue delay in approaching the Court, we are of the view that the petitioner has failed to pursue his remedy diligently. We, therefore, find that this petition is not maintainable and is liable to be dismissed.

30. Consequently, the present petition, along with the pending applications, is dismissed.

SHALINDER KAUR, J

NAVIN CHAWLA, J

FEBRUARY 11, 2025/SU/FRK/IK

Click here to check corrigendum, if any