



2025:DHC:11374-DB



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

Date of decision: 15.12.2025

+ W.P.(C) 13800/2018

SHRI BISWABIJOYEE PANIGRAHI (RETD. IRS)

.....Petitioner

Through: Ms. Tamali Wad, Sr. Adv. with
Ms. Palak Garg and Mr. Varyam
Pandey, Advs.

versus

UNION OF INDIA AND ANR.

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC,
Mr. Madhav Bajaj, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

C.M. No. of 2025 (to be numbered)

1. This application has been filed by the petitioner seeking condonation of 75 days delay in filing the short affidavit in compliance with our Order dated 08.09.2025.

2. For the reasons stated in the application, the same is allowed, and the delay in filing the affidavit is condoned.

3. The short affidavit is taken on record.

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4. This petition has been filed by the petitioner, challenging the Order dated 02.11.2018 passed by the learned Central Administrative



Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 1864/2016, titled ***Shri Biswabijoyee Panigrahi (Retd. IRS) v. Union of India & Anr.***, whereby the learned Tribunal dismissed the O.A. filed by the petitioner herein.

5. To give a brief background to the facts in which the present petition arises, the petitioner, who was working as Commissioner of Income Tax(A), Chennai, was granted Study Leave from 01.09.2003 to 31.08.2005, *vide* a Sanction Order issued on 14.01.2004 by the respondent no.2/CBDT. On the allegation that upon the expiry of the sanctioned Study Leave, the petitioner deliberately failed to resume duty in defiance of Government directions/orders, a Charge Memorandum dated 18.06.2008 was issued to the petitioner.

6. By an Order dated 02.05.2011, the petitioner was found guilty of the charge, and a penalty of reduction of pay by four stages for a period of two years with effect from the date of issuance of the order, was imposed. It was further directed that the petitioner would not earn increments of pay during the period of reduction and that, upon expiry of this period, the reduction would have the effect of postponing future increments of pay.

7. Aggrieved by the same, the petitioner challenged it before the learned Tribunal by way of O.A. No.2559/2011.

8. The learned Tribunal, by its Order dated 01.09.2015, allowed the O.A. filed by the petitioner herein, with the following directions:

“13. In totality of facts and circumstances of the-case, we allow the instant Original Application, with the following directions:-

(i) The impugned charge-sheet dated 18.06.2008 and the impugned punishment,



order dated 02.05.2011 are quashed and set aside,

(ii) The applicant will be entitled to all consequential benefits,

(iii) It would, however/be open-to the respondents to proceed afresh in the matter' from the stage of obtaining approval of the competent authority for issuance of the charge memo,

(iv) There shall be no order as to costs."

9. Pursuant to the liberty granted by the learned Tribunal in paragraph 13(iii) of the Order dated 01.09.2015, the respondents issued a fresh Charge Memorandum to the petitioner on 11.12.2017.

10. In the meantime, the petitioner had superannuated from service on 31.07.2014 and had been sanctioned provisional pension and had continued to draw the reduced pay till retirement. The increments withheld under the Order dated 02.05.2011 were not restored, and the pension, gratuity, and leave encashment, which are dependent upon the last drawn pay, were affected by the penalty.

11. Aggrieved by the non-grant of consequential benefits pursuant to the directions issued by the learned Tribunal *vide* Order dated 01.09.2015, as referred to hereinabove, the petitioner filed the above O.A. before the learned Tribunal.

12. The learned Tribunal dismissed the O.A. filed by the petitioner by observing as under:

"19. Even where an employee was found to be entitled to any benefit of promotion and increments, but any proceedings are either initiated pr revived by the time, the actual benefit is extended, he virtually becomes disentitled to such benefit, till the conclusion of such proceedings. That actually is the



situation which obtains in the present case. The direction as regard the consequential benefits in OA No.2559/2011 is neither absolute, nor unconditional, but was always subject to the initiation of proceedings, which the Tribunal itself permitted.

20. It has also been argued by learned counsel for the applicant that the applicant was entitled for promotion and other benefits, even if, the punishment were to have remained. In other words, the penalty of reduction of pay scale by four stages had expired in the year 2013 itself, and since the applicant was in service beyond that date, he was entitled to be considered for promotion. This would be possible if only the applicant accepts or acknowledges the punishment. More than once, we have put a question to learned counsel for the applicant as to whether the applicant is ready to treat the punishment as final, but no straight forward answer was forthcoming.

21. The applicant cannot blow hot and cold at one and the same time. He cannot challenge the initiation of proceedings on the one hand and plead that the order of punishment has worked itself out, on the other hand. Further, with the issuance of a charge sheet, a totally different situation emerges.

22. The precedents relied upon by learned counsel for the applicant apply to the cases where an employee is not facing any disciplinary proceedings. Though the disciplinary proceedings in the case of the applicant ended with the imposition of penalty in the year 2011, it is he who kept those proceedings alive in one form or the other, and he cannot claim that his service was free from blemish.”

13. The learned senior counsel for the petitioner submits that the



mere issuance of a Charge Memorandum dated 11.12.2017 cannot disentitle the petitioner to the consequential benefits arising out of the setting aside of the original Charge Memorandum dated 18.06.2008, which had resulted in the penalty Order dated 02.05.2011, which, in turn, had also been set aside by the learned Tribunal.

14. She further submits that once the penalty order had been set aside, the petitioner was entitled not only to the grant of regular increments up to the date of his superannuation, but also to consideration for promotion, which had been denied to him during the pendency of the aforesaid disciplinary proceedings. She also submits that the learned Tribunal misdirected itself in observing that the benefits could be granted to the petitioner only if he had accepted and acknowledged the punishment.

15. On the other hand, the learned counsel for the respondents submits that pursuant to the liberty granted by the learned Tribunal in its Order dated 01.09.2015, a fresh Charge Memorandum was issued to the petitioner on 11.12.2017. Owing to the pendency of the same, the increments withheld pursuant to the penalty Order dated 02.05.2011 were not restored and the last drawn pay was not reworked, and the finalisation of regular pension, gratuity, and leave encashment was kept in abeyance. She further submits that, in these circumstances, where the Charge Memorandum dated 11.12.2017 had not been challenged by the petitioner till the date of passing of the Impugned Order by the learned Tribunal, no fault can be found with the Impugned Order.

16. We may note herein that the learned senior counsel for the



petitioner has submitted that the Charge Memorandum dated 11.12.2017 now stands set aside by the learned Tribunal, Cuttack Bench, *vide* its Order dated 16.07.2025 passed in O.A. No.260/00622/2018, titled ***Biswabijoyee Panigrahi (Retd. IRS) v. Union of India & Anr..***

17. We have considered the submissions made by the learned counsels for the parties.

18. The learned Tribunal *vide* its Order dated 01.09.2015 had set aside the Charge Memorandum dated 18.06.2008 and the penalty Order dated 02.05.2011. It had directed that the petitioner would be entitled to all consequential benefits. Therefore, any increments withheld from the petitioner pursuant to the penalty Order dated 02.05.2011, as well as consideration for promotion denied to the petitioner due to the said departmental proceedings, were required to be restored to the petitioner. The mere fact that, pursuant to the liberty granted by the learned Tribunal in its Order dated 01.09.2015, a fresh Charge Memorandum was issued to the petitioner on 11.12.2017, post his superannuation on 31.07.2014, and more than a year of passing of the order by the learned Tribunal, cannot disentitle him to such relief. The pay of the petitioner was required to be reworked in compliance with the Order dated 01.09.2015 passed by the learned Tribunal.

19. The further fact that, as on the date of the said order, the petitioner had not yet challenged the Charge Memorandum dated 11.12.2017, could also not come in the way of his seeking enforcement of the Order dated 01.09.2015 passed by the learned Tribunal. The effect of Charge Memorandum dated 11.12.2017 cannot



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be to disentitle the petitioner of his legitimate retiral dues.

20. In our view, the learned Tribunal completely misdirected itself in dismissing the O.A. filed by the petitioner by the Impugned Order.

21. The effect of the subsequent Charge Memorandum dated 11.12.2017 on the promotion claimed by the petitioner ought also to have been considered independently on its own merits by the learned Tribunal.

22. We, therefore, set aside the Impugned Order and direct the respondents to work out the consequential benefits for the petitioner pursuant to the Order dated 01.09.2015, within a period of twelve weeks from today and to release the same to the petitioner within the said period. As far as the claim for promotion is concerned, if any sealed cover procedure has been followed in respect of the petitioner, the same shall be opened and further processed in accordance with law within the same period.

23. The petition is allowed in the above terms.

24. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 15, 2025/Arya/DG