May 5, 2026
Sl. No.32
Court No.1
s.biswas

WPCT 88 of 2026

Santosh Sharma
vs.
The Union of India and others

Mr. Supriyo Chattopadhyay
Mr. Indresh Vikram Sngh
Ms. Debosri Chatterjee
... for the petitioner
Mr. Joydeep Sen
Mr. Guddu Singh
... for the respondents

Dictated by Sujoy Paul, C.J.

1. Mr. Supriyo Chattopadhyay, learned counsel for the petitioner and Mr. Joydeep Sen, learned counsel for the respondents, are heard on admission.
2. This petition filed under Article 226/227 of the Constitution assails the order of Central Administrative Tribunal, Calcutta Bench (Tribunal) dated 26th February, 2026 passed in O.A. 350/598/2021 whereby his challenge to the memorandum of charges dated 18th August, 2020 was repealed.
3. Briefly stated, the relevant facts are that the petitioner while working as Chairman-

cum-Managing Director of Hindustan Copper Limited (HCL), retired on attaining the age of superannuation on 31.12.2019. the petitioner was served a charge-sheet dated 18.08.2020 and disciplinary proceeding was initiated in the Hindustan Copper Limited (Conduct, Discipline and Appeal) Rules, 1979 (HCL Rules of 1979).

4. The petitioner assailed the said charge-sheet before the Tribunal in the O.A. in the teeth of Rules 30.0(b)(ii) of the HCL Rules of 1979 by contending that the charge-sheet was issued after his retirement for the events which have taken place 2 years before the date of his retirement. Hence, charge-sheet is hit by the bar mentioned in 30.0(b)(ii) of the said Rules. The Tribunal considered the Office Memorandum dated 30.03.2020 issued by the Department of Personnel and Training, Government of India and came to hold that period of lockdown during Covid needs to be excluded for the purpose of counting limitation in a case of this

nature. Accordingly, the Tribunal opined that charge no.(vii) falls within 2 years from the date of issuance of charge-sheet. For rest of the charges, the Tribunal opined that the same are not severable and are interconnected.

5. With aforesaid findings, the Tribunal declined interference in the matter.

6. Learned counsel for the petitioner by taking this court to the charge-sheet submits that although a composite charge-sheet was issued, it was divided into 8 charges. Even if charge no.7 falls within a period of 2 years from the date of issuance of charge, the other charges were beyond the period of limitation. Thus, Tribunal ought to have interfered with the remaining charges. Apart from this, it is submitted that during the pendency of the said O.A., the Tribunal protected the petitioner and departmental enquiry was permitted to be continued. The department was restrained from passing the final order. However, after dismissal of

O.A., the department has punished the petitioner by passing the order dated 20th April, 2026. The bone of contention of the petitioner is that if charge-sheet is bad in law, the entire disciplinary proceeding and punishment order founded upon it will be liable to be interfered with.

7. Learned counsel for the department, on the other hand, supported the impugned order and urged that all the charges are interconnected and Tribunal has rightly opined that the charges are interconnected and hence charge no.(vii) cannot be read separately.

8. He placed reliance on Rule 35 of the said Rules to show that there exists a power with the competent authority to relax the Rules and therefore, impediment of 2 years mentioned in the Rule 30.0(b)(ii) is also not an absolute impediment.

9. No other point is pressed by learned counsel for the parties.

10. We have heard the parties at length and perused the record.

11. Rule 30.0(b)(ii) reads thus:

> ***30.0 Special procedure in certain cases***
> *Notwithstanding anything contained in Rules 25 or 26 or 27 the Disciplinary Authority may impose any of the penalties specified in Rule 23 in any of the following circumstances:*
> *(i) ...*
> *(ii) ...*
> *(iii) ...*
> *(iv) ...*
> *(a)...*
> *(b) That the disciplinary proceedings, if not instituted while the employee was in service, whether before his retirement or during his reemployment –*
> *(i) shall not be instituted save with the sanction of the Board of Directors in the case of any employee below the Board level, and of the Administrative Ministry in case of a Board level employee, including an officer on deputation from the Central Government even to a post below the Board level.*
> *(ii) shall not be in respect of any event which took place more than two years before such institution.*

12. Rule 35.0, on which learned counsel for the department relied upon, reads thus:

> ***35.0 Power to relax time limit and to condone delay***
> *Save as otherwise expressly provided in these rules, the authority competent under these reles to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules, for anything required to be done under these rules or condone any delay.*

13. At the outset we deem it proper to deal with Rule 35.0. No doubt this Rule enables the competent authority to relax the Rules by passing the order for good and sufficient reasons. However, no such order can be brought to our notice where the competent authority exercised its power as per Rules 35.0. This provision, in our considered judgment is an enabling provision which needs to be exercised by passing an express order. In absence of showing any such power being exercised and by issuing an express order, we are unable to hold that Rule 35.0 will come to the rescue of the department.

14. So far Rule 30.0(b)(ii) is concerned, it is clear that charge-sheet can be issued for an event which took place within 2 years from the date of institution i.e. issuance of charge-sheet which is 18.08.2020 in the instant case.

15. The Tribunal opined that charge no.(vii) falls within the period of 2 years if the Covid period is excluded in the teeth of

OM of Department of Personnel and Training dated 30.03.2020. On a specific query from the Bench, learned counsel for the petitioner could not point out any pleading wherein the petitioner attacked finding of Tribunal in para 6.3 of the impugned order wherein by taking aid of said OM dated 30.03.2020, the Tribunal decided to exclude the period of lockdown from computation of limitation. In absence thereof, we find no reason to doubt the aforesaid findings of the Tribunal regarding exclusion of period of limitation for lockdown period.

16. If said period is excluded, the averment of charge no.(vii) falls within a period of 2 years from the date of institution of charge-sheet. Thus, charge no.(vii) is within the period of limitation for issuance of charge-sheet/initiation of enquiry.

17. The Tribunal opined that the charges are interconnected. We have examined the averments of the charges and are of the opinion that Tribunal has taken a

plausible view. What has been mentioned in charge no.(i), is a continuous cause which culminated in charge nos.(vii) and (viii). In other words, the misconduct mentioned in the entire charge-sheet is arising out of one proceeding which culminated in charge no.(vii). Thus, on the touchstone of doctrine of severability also, we find that other charges cannot be read as independent and separate charge which can exist if excluded from charge no.(vii). Since charges are interwoven/interlinked, the Tribunal has taken a plausible view and declined interference which, in our opinion, a plausible and correct view.

18. In the light of aforesaid, we find no reason to admit this petition. The petition is dismissed. However, it is made clear that this order will not preclude the petitioner to challenge the punishment order before the Tribunal wherein apart from charge-sheet, he can challenge the legality, validity and propriety of disciplinary

proceedings and the punishment order on the permissible grounds.

19. With the aforesaid observation, petition is dismissed.

20. Urgent photostat certified copy of this order, if applied for, be given to the parties after compliance of all necessary formalities.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)