

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.4505 of 2026

Ashok Kumar Majumdar, aged about 64 years, son of Bhabaranjan Majumdar, residing at Madhyapara near Charabattala, P.O. Ghoshpur, P.S. Baduria, District-North 24 Paraganas, West Bengal-743289.

Petitioner

Versus

1. The Union of India through Secretary, Ministry of Railways, Government of India having its established office at Rail Bhavan 1, Raisina Road, New Delhi, P.S.-Kartavya Path, P.O.Rail Bhawan, Pin-110001.
2. The General Manager, GM Office, East Central Railway, Hajipur, P.O.-Head Post Office, P.S.-Hajipur Town, District-Vaishali, Bihar-844101.
3. The Divisional Railway Manager, Eastern Railway/East Central Railway, Mukunda, Kasturba Nagar, Dhanbad, P.O.-Dhanbad Head Post Office, P.S.-Dhanbad Railway Police Station, District-Dhanbad, Jharkhand-826001.
4. The Senior Divisional Electrical Engineer/TRD, East Central Railway, Mukunda, Kasturba Nagar, Dhanbad, P.O.-Dhanbad Head Post Office, P.S.-Dhanbad Railway Police Station, District-Dhanbad, Jharkhand-826001.
5. The Senior Divisional Personnel Officer and Public Information Officer, East Central Railway, Mukunda, Kasturba Nagar, Dhanbad, P.O.-Dhanbad Head Post Office, P.S.-Dhanbad Railway Police Station, District-Dhanbad, Jharkhand-826001.
6. Traction Distribution, IR-D, East Central Railway, Mukunda, Kasturba Nagar, Dhanbad, P.O.-Dhanbad Head Post Office, P.S.-Dhanbad Railway Police Station, District-Dhanbad, Jharkhand-826001.

Respondents

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Petitioner

: Ms. Nidhi Kumari, Advocate
 Mr. Aditya Sen, Advocate

For the UOI

: Mr. Prashant Pallav, A.S.G.I.
 Ms. Shivani Jaluka, A.C. to A.S.G.I.

02/Dated: 02.07.2026

Prayer

1. This writ petition under Article 226 of the Constitution of India is directed against the order dated 23.05.2025 passe by the learned Tribunal, by which, the original application as well as

Miscellaneous application, has been dismissed on the ground of limitation.

Factual Matrix

2. The brief facts of the case, as per the pleading made in the writ petition, required to be enumerated, which read as under: -

- (i) It is the case of the writ petitioner that he was the employee of the Eastern Railway under the designation of Clerk, Group-II under Sectional Engineer (TRD)/CRP from 1981 to 31.01.2022 and was retired in the year, 2022. He was actually appointed on 13.01.1981 by the respondent authority but after his retirement, the respondents have illegally reduced his service period to 1983.
- (ii) It is the further case that on 25.03.1996, a disciplinary proceeding was initiated by the respondent no.6 against the petitioner on the basis of a false charge and place the petitioner under suspension from 25.03.1996 to 18.07.1997. After suspension, he was being given subsistence allowance equal to the leave salary, including dearness allowance.
- (iii) Thereafter, the petitioner filed an appeal against the said suspension order on 16.08.1996 to the respondent authorities and the petitioner repeatedly made further appeals before the aforesaid authority on 16.10.1996, 12.02.1997, 13.03.1997, 14.03.1997, 16.05.1997 and

29.05.1997 but there was no response from the respondent authorities. It is the further case that neither any charge was framed against the petitioner nor any charge sheet was filed against him by the respondent authorities.

- (iv) During suspension period, the subsistence allowance of the petitioner was reduced to 25 per cent without any explanation or notice. Suddenly, the suspension was removed from the petitioner by the respondent on 07.08.1997 and the issue of reduced subsistence allowance and the dearness allowance was never resolved by the respondent in spite of his repeated representations. He had tried several times to approach to the respondent-authority to get clarification regarding the treatment of his suspension period and while drawing pension found that his suspension period was excluded from the calculation of his pension amount.
- (v) It is the further case that he has also made an application under the R.T.I. Act before the authority but the response given by the respondent authority to the petitioner was not satisfactory. The petitioner having no other alternative remedy, has filed application under Section 19 of the Administrative Tribunal Act, 1985 being O.A. No.051/00372/2025 along with an application for condonation of delay under Section 5 of the Limitation

Act before the Tribunal, Circuit Bench at Ranchi. On 23.05.2025, the aforesaid application was taken up and after hearing the petitioner, the Tribunal has dismissed the original application as well misc. application in *limine*, being barred by limitation and devoid of any documentary support, against which, the present writ petition has been filed.

Submission of the learned counsel for the petitioner

3. Learned counsel for the petitioner has submitted by referring to the impugned order that the learned Tribunal while deciding the issue of delay, has gone into the merit of the case, as would be evident from paragraph-3, 4 and 5 of the impugned order.
4. It has been contended that the issue of limitation has been considered, in addition to the reference made on the issue of merit and dismissed the original application as well as miscellaneous application in *limine*, being barred by limitation and devoid of any documentary support.
5. It has also been contended that when the original application was barred by limitation and to that effect, miscellaneous application was filed, then, it was the bounden duty of the learned Tribunal to decide the miscellaneous application filed for condonation of delay independently by not touching or going into the issue on merit but the same has not been done, as would be evident from the impugned order and therefore, the present writ petition.

Submission of the learned counsel for the respondent-UOI

6. Learned A.S.G.I. appearing for the respondent-U.O.I., being conscious of the fact that the case has been listed under the heading for “fresh filing”, he has not yet sought time to file any affidavit, reason being that legal issues have been raised and as such, he has argued the legal issue.
7. It has been contended that paragraphs-3, 4 & 5 although have been referred but that cannot be construed to be the consideration on merit as such, what is being argued on behalf of the petitioner, is not being corroborated from the impugned order.
8. But it has been submitted that the miscellaneous application filed for condonation of delay has also been considered which is independent to that of consideration on merit and hence, it cannot be said that the order passed by the learned Tribunal suffers from an error.
9. We have heard the learned counsel for the parties.

Analysis

10. The issue which has been raised on behalf of the petitioner, is as to whether, the forum having the jurisdiction to decide the issue which has been decided in the present case under Article 226 of the Constitution of India as per the amendment inserted by the Constitution by insertion of Article 323A by constituting the Tribunal, said to be Central Administrative Tribunal for adjudication of the matters related to service dispute.
11. The Tribunal has been conferred with the power of Article 226

of the Constitution of India which has elaborately been dealt with by the Constitution Bench of the Hon'ble Apex Court, as rendered in the case of ***L. Chandra Kumar Vrs. Union of India & Ors.***, reported in **(1997) 3 SCC 261**, wherein, it has been held at paragraph-99 as under: -

"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323- A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323- B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be

interpreted in the manner we have indicated."

12. The issue of consideration of limitation, whether under the Central Administrative Tribunal, it was available to the tribunal also to touch the issue on merit by giving a finding that no case is being made out due to want of documentary support, as has been referred at paragraphs-3 & 7 of the impugned order.

13. The law is well settled as per the Limitation Act as available under Section 3 thereof that if any *lis* is barred by limitation, then, it is incumbent upon the concerned litigant to make an application by taking aid of the provision of Section 5 of the Limitation Act, 1963 by making of the sufficient cause to establish that due to the availability of the sufficient cause, the delay has been caused.

14. The *pari materia* provision has been carved out under the Administrative Tribunal Act, 1985 as available under Section 21(3), wherein, the Tribunal has been conferred with the power to entertain any *lis* if filed within the period of one year subject to conferment of power to condone the delay depending upon the sufficient case if shown by the litigant, as would be evident from the provision of Section 21(3) of the Act, 1985, for ready reference, Section 21 of the Act, 1985 is being quoted hereinabove:-

*"21. Limitation.—(1) A Tribunal shall not admit an application, —
(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such*

final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

15. Thus, it is evident that the *pari materia* provision as has been referred under Section 5 of the Limitation Act, 1963, has been inserted in the Administrative Tribunal Act, 1985 conferring power upon the learned Tribunal to condone the delay depending upon the sufficient cause, if shown.

16. Section 3 of the Limitation Act, 1963 provides that if any lis is

barred by limitation then the appropriate forum exercising the jurisdiction as an adjudicator is to first look into the issue of limitation for the purpose of coming to the satisfaction, based upon the document, as to whether the litigant concerned has been able to show the sufficient cause or not and the due diligence is being reflected from the said sufficient cause as disclosed in the delay condonation application and then, if the concerned adjudicator is to condone the delay and thereafter, to enter into the issue on merit, i.e., the mandate of Section 3 of the Limitation Act which is being referred hereinabove.

17. Adverting to the factual aspect of the present case, as would be evident from the pleading made in the writ petition, as has been referred also in the impugned order that along with the original application the delay condonation application also has been filed invoking the jurisdiction of the Tribunal, as mandated under Section 21(3) of the Act, 1985, wherefrom, it is evident particularly from the prayer no.(ii), i.e., to set the embargo of suspension period from 25.03.1996 to 18.07.1997 and removal period from 19.07.1997 to 07.08.1997 from the service period of the petitioner and to consider the basic salary amount of the aforesaid period of suspension period to be added with the pension amount of the petitioner from the day of starting of his retirement, i.e., w.e.f. 01.02.2022, for ready reference, prayer no.(ii) is being quoted as under:-

(ii) For issuance of appropriate writ(s), order(s),

direction(s), specifically a writ in the nature of mandamus, commanding upon the Respondents to set aside the embargo of suspension period from 25.03.1996 to 18.07.1997 and removal period from 19.07.1997 to 07.08.1997 from the service period of the petitioner and to consider the basic salary amount of the aforesaid period of suspension period to be added with the pension amount of the petitioner from the day of starting of his retirement, that is 01.02.2022.”

18. This Court has gone through the impugned order to assess the argument advanced on behalf of the petitioner;

“whether while deciding the issue of limitation, is proper for the learned Tribunal also to enter into the issue on merit?”

19. It is evident from paragraph-3 of the impugned order which begins from the word, i.e., “upon perusal of the relief clause, it is observed that the applicant seeks a direction from this Tribunal to the respondent to exclude the period of suspension from 25.03.1996 to 18.07.1997, and the removal period from 19.07.1997 to 07.08.1997, from the applicant’s service record.”

20. Thereafter, the learned Tribunal has come to the subjective satisfaction that the applicant has not filed any supporting documents to substantiate this claim.

21. The learned Tribunal has further observed at paragraph-4 that it is well-understood principle that every government department follows specific rules and procedures concerning the preservation and destruction of official records. It is unlikely that records pertaining to an employee’s suspension over two decades ago

would still be retained.

22. This also shows that the learned Tribunal virtually has come to the finding without calling upon at that stage of limitation. Thereafter, at paragraph-5, it has been recorded that the respondent officials have also submitted that no such records are presently available as is evident from the reply that has been given to the applicant in response to his R.T.I. application kept at page-36 of the original application.

23. Then, it has been recorded at paragraph-6 & 7 that furthermore, the Miscellaneous Application for condonation of delay is itself barred by limitation of time and does not disclose any sufficient cause justifying the inordinate delay and accordingly, the original application as well as miscellaneous application (for Condonation of Delay) has been dismissed in limine being barred by limitation and devoid of any documentary support, for ready reference, paragraph nos.3 to 7 are being quoted as under:-

“3. Upon perusal of the relief clause, it is observed that the applicant seeks a direction from this Tribunal to the respondent to exclude the period of suspension from 25.03.1996 to 18.07.1997, and the removal period from 19.07.1997 to 07.08.1997, from the applicant's service record. However, the applicant has not filed any supporting documents to substantiate this claim.

4. It is a well-understood principle that every government department follows specific rules and procedures concerning the preservation and destruction of official records. It is unlikely that records pertaining to an employee's suspension over two decades

ago would still be retained.

5. The respondent officials have also submitted that no such records are presently available as is evident from the reply that has been given to the applicant in response to his R.T.I application kept at page 36 of this OA.

6. Furthermore, the Miscellaneous Application for condonation of delay is itself barred by limitation of time and does not disclose any sufficient cause justifying the inordinate delay.

7. Accordingly, the Original Application as well as the Miscellaneous Application (for Condonation of Delay) is dismissed in limine, of time being barred by limitation of time, and devoid of any documentary support. No order as to costs.”

24. It is, thus, evident from paragraph-3, 4 and 5 that the learned Tribunal has entered into the issue on merit and reflects its mind even though at that stage, the original application was barred by limitation.

25. The learned Tribunal although has considered the issue of condonation of delay but it appears from paragraph-6 which starts from the word “furthermore” which itself clarifies that in addition what has been reflected by the learned Tribunal at paragraph-3, 4 & 5, the issue of limitation has been taken as an additional ground to dismiss the original application.

26. This Court, therefore, is of the view that the learned Tribunal has erred in passing that order due to the reason that if any *lis* has been filed barred by limitation, then, it is the bounden duty as has been referred hereinabove of the adjudicator, whether it is Tribunal or any appropriate forum having power to first touch the issue of limitation and on consideration based upon the sufficient

cause if the concerned adjudicator comes to the conclusion that the cause which has been shown by the party is sufficient to condone the delay, then, the delay is to be condoned and thereafter, the Court is to enter into the merit but that is lacking in the present case, rather, herein, in the same transaction of order, the limitation petition has also been rejected and the same has been taken as a ground for dismissal of the original application by making reference that the documents are old and no supporting documents have been filed which has been referred as a reason for dismissal of the original application as would evident from paragraph-7 of the order impugned.

27. This Court, therefore, is of the view that under the power of judicial review, which is to be exercised as per the proposition laid down at paragraph-99 of the judgment rendered by the Hon'ble Apex Court in the case of ***L. Chandra Kumar Vrs. Union of India & Ors. (supra)***, it is a fit case where the power of judicial review is to be exercised and accordingly, the same is being exercised, based upon the aforesaid reason, since, there is error apparent on the face of the order.

28. Accordingly, the order impugned dated 23.05.2025 passed in O.A. No.051/00372/2025 is, hereby, quashed and set aside.

29. In the result, the instant writ petition stands allowed.

30. The original application being O.A. No.051/00372/2025 is revived for its consideration in accordance with law.

31. The learned Tribunal will not be prejudiced by any observation

made by this Court.

32. Pending interlocutory application(s), if any, stands disposed of.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

02.07.2026
Rohit/-**A.F.R.**