* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Reserved on : 16th April 2026***
Pronounced on : 22nd May 2026
Uploaded on : 23rd May 2026

\+ **LPA 378/2024**

ANWAR ALI .....Appellant

Through: Mr. I.C. Mishra and Mr. Balmiki Prasad, Advocates.

versus

UOI AND OTHERS .....Respondents

Through: Mr. Sushil Kumar Pandey, SPC with Mr. Aman Kumar Pandey and Mr. Pradip Sharma, Advocates for UoI/ R-1

Mr. Rajat Arora, Mr. Niraj Kumar and Mr. Sourabh Mahla, Advocates for R-2 & 3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J

1. The present Letters Patent Appeal ('***LPA***') has been filed by the appellant assailing the judgment dated 03rd November 2023 passed by the Single Judge in ***W.P. (C) No. 14316/2023*** ('***impugned judgment***'), dismissing the writ petition filed by the appellant. The writ petition was filed by the appellant (*original petitioner*), challenging the order dated 19th

January 1998 and order dated 27th April 2023, which rejected the representation of appellant pursuant to orders passed in W.P. (C) No. 2532/2023 in relation to dismissal of his service from respondent no.2 bank and denial to grant the entire benefits of his service period.

2. Appellant was appointed as a '*clerk*' at *Jamshedpur Branch* and his tenure commenced from 07th December 1972. On 16th September 1981, he was promoted to Officer category. Appellant claims to have rendered approximately 26 years of service with an unblemished record.

3. During the year 1996, appellant remained absent for certain periods, i.e. 17th January 1996 to 24th January 1996 and 17th February 1996 to 29th March 1996.

4. Disciplinary proceedings were initiated against appellant on account of unauthorized absence, which resulted in an order dated 19th January 1998 passed by the Deputy Zonal Manager, terminating the services of appellant.

5. In the report dated 29th November 1997, submitted by the Inquiring Authority, the charges alleged against the appellant stood proven.

6. Subsequently, appellant filed an appeal dated 25th March 2000 against the said penalty order to Executive Director; however, the same is alleged by the respondent no.2 that it was never delivered its office/representation before the competent authority.

7. On 9th January 2000 and 20th June 2000, appellant made representation seeking retiral benefits.

8. On 7th January 2022, appellant made another representation to respondent no. 2 and 3, however, no action has been taken by the respondents.

9. Appellant approached this Court by way of Writ Petition (C) No.2532/2023, seeking disposal of his pending appeal/representation. By order dated 28th February 2023, the Single Judge directed respondent no.3 to decide the pending appeal and representation within six weeks.

10. Pursuant thereto, respondent no.3 passed an order dated 27th April 2023, rejecting appellant's claims.

11. Appellant filed W.P.(C) No.14316/2023, challenging both the original termination order dated 19th January 1998 and the subsequent order dated 27th April 2023, which was dismissed *vide* judgment dated 03rd November 2023, noting that there is no ground for interference.

Submissions on behalf of the appellant

12. Counsel for appellant contended that absence from duty was duly intimated to the concerned controlling authority/Branch Manager. He submitted that the appellant duly informed the concerned authority that he would be on leave due to some personal circumstances.

13. Counsel for appellant further submitted that order dated 19th January 1998 is *ex facie* void, as it was passed by an authority which lacked competence under the applicable service regulations. He stated that the Deputy Zonal Manager was not the competent disciplinary authority authorized to impose the penalty of dismissal, and therefore the impugned termination order is without jurisdiction.

14. Moreover, the termination order did not specifically forfeit his retiral dues, including pension, gratuity, provident fund, and leave encashment.

15. Counsel for appellant alleged that although the order of passed by respondent no.3 dismissing claim bears the date 27th April 2023, it was in fact dispatched only in August 2023 and served upon him on 16th August 2023. Furthermore, order dated 27th April 2023 falsely introduced allegations regarding CBI involvement, despite no such allegations or criminal proceedings having existed at the time of termination or thereafter.

16. It is also alleged that respondent no.3 acted with *mala fide* intent by deliberately delaying the communication of the order dated 27th April 2023 and by introducing false allegations unsupported by any record.

17. It is further argued that the denial of retiral benefits despite long years of service, without any proven financial misconduct or corruption, is arbitrary, illegal, and violative of settled principles governing pensionary rights.

18. Counsel for appellant contends that pension is not a bounty but a statutory right and constitutes a continuing cause of action, and therefore, principle of delay and laches would not apply to the present case.

19. In support of his contention he relies upon the order of Supreme Court in ***Starpayal Natarajan Iyer v The State of Gujrat and Anr***. passed on 05th November 2024 in SLP (C) being 19195/2022, wherein the Court was dealing with a case where appellant's writ petition was dismissed by the Gujarat High Court due to a 7-year delay. The Supreme Court set aside the High Court's orders and held that pension is a continuing and recurring

cause of action. Relying on ***D.S. Nakara and Ors. v. Union of India*** (1983) 1 SCC 30, the Court reaffirmed that payment of pension is not a bounty but a recurring occurrence and the matter was remanded to the Gujarat High Court for fresh consideration on merits regarding the appellant's entitlement to pension and terminal benefits.

20. He further relied upon the judgment of the Supreme Court in ***UCO Bank and Anr. v. Vijay Kumar Handa*** 2025 INSC 442, which was also a case of a bank clerk, who was found guilty of gross misconduct and was initially dismissed from service. On appeal, the punishment was reduced to removal from service with terminal benefits, specifically stating that he would receive benefits for the period served. The employee later sought pensionary benefit; however, the Bank argued that under Regulation 22 of the UCO Bank (Employees') Pension Regulations, 1995, removal from service disqualified him from pension. The Supreme Court relied on ***Bank of Baroda v. S.K. Kool*** (2014) 2 SCC 715 and upheld the view taken in that judgment. The observations made by Supreme Court in ***S.K. Kool*** (*supra*) are extracted as under:

> "*13. ....<u>From a plain reading of the aforesaid Regulation, it is evident that removal of an employee shall entail forfeiture of his entire past service and consequently such an employee shall not qualify for pensionary benefits. If we accept this submission, no employee removed from service in any event would be entitled for pensionary benefits. But the fact of the matter is that the Bipartite Settlement provides for removal from service with pensionary benefits "as would be due otherwise under the rules or regulations prevailing at the relevant time". The consequence of this</u>*

<u>construction would be that the words quoted above shall become a dead letter. Such a construction has to be avoided</u>.

14. The Regulations do not entitle every employee to pensionary benefits. Its application and eligibility is provided under Chapter II of the Regulations whereas Chapter IV deals with qualifying service. An employee who has rendered a minimum of ten years of service and fulfils other conditions only can qualify for pension in terms of Regulation 14 of the Regulations. Therefore, the expression "as would be due otherwise" would mean only such employees who are eligible and have put in minimum number of years of service to qualify for pension. However, such of the employees who are not eligible and have not put in required number of years of qualifying service shall not be entitled to the superannuation benefits though removed from service in terms of Clause 6(b) of the Bipartite Settlement. Clause 6(b) came to be inserted as one of the punishments on account of the Bipartite Settlement. It provides for payment of superannuation benefits as would be due otherwise.

15. The Bipartite Settlement tends to provide a punishment which gives superannuation benefits otherwise due. The construction canvassed by the employer shall give nothing to the employees in any event. Will it not be a fraud Bipartite Settlement? Obviously it would be. From the conspectus of what we have observed we have no doubt that such of the employees who are otherwise eligible for superannuation benefit are removed from service in terms of Clause 6(b) of the Bipartite Settlement shall be entitled to superannuation benefits. This is the only construction which would harmonise the two provisions. <u>It is well-settled rule of construction that in case of apparent conflict between the two provisions,</u>

they should be so interpreted that the effect is given to both. Hence, we are of the opinion that such of the employees who are otherwise entitled to superannuation benefits under the Regulations if visited with the penalty of removal from service with superannuation benefits shall be entitled for those benefits and such of the employees though visited with the same penalty but are not eligible for superannuation benefits under the Regulations shall not be entitled to that."

(emphasis added)

21. Further reliance was placed on ***State Bank of India v. Shri A.N. Gupta, etc*** AIR 1998 SC 159 passed by the Supreme Court. Relevant paragraphs are extracted as under:

"*15. Rule 10 of the Pension Rules provides for forfeiture of all claims for pension if an employee is dismissed from service of the Bank for wilful neglect or fraud. This Rule specifically provides for forfeiture of the pension. It could not therefore be said that under Rule 11 again the pension of an employee could be withheld on these or similar grounds. In our view the last sentence of Rule 11 which says that an employee who shall leave the service without sanction of the Executive Committee of the Central Board of the Bank shall forfeit all claims for pension would not include the holding of the employee guilty of wilful neglect or fraud which is envisaged in Rule 10. Rule 11 particularly the latter portion of this Rule would be applicable where an employee leaves the service of the Bank before reaching the age of superannuation or the Bank requires him to retire before that date on his becoming incapacitated or otherwise. It cannot be said that an employee retires only on superannuation and there is no other circumstance under which an employee can retire.*

Retirement on superannuation is not the only mode of retirement known to service jurisprudence. There can be other types of retirements like premature retirement, either compulsory or voluntary. It would be in the case of a premature retirement or any other contingency when an employee leaves the service of the Bank before he superannuates that Rule 11 would become applicable. Retirement on superannuation is automatic as per Rule 26 of the Service Rules. No further action on the part of the Executive Committee of the Central Board of the Bank would be required in such a case and Rule 11 will not be applicable.

16. Right to receive pension is a right to property under Rule 7 of the Pension Rules when it says that no employee shall have any right of property in the pension fund beyond the amount of his contribution to the pension section of the fund with interest accrued thereon. That being so Rule 11 cannot be interpreted to mean that claim to pension of an employee on superannuation can be defeated by the Bank by merely withholding sanction of retirement. For about 8 years when these two matters were pending in the Delhi High Court the Bank did not take any decision in terms of Rule 11 to sanction retirement of the respondents. The Bank never communicated to the respondents that it had withheld sanction to their retirement or did not approve their service. It is only during the course of proceedings in the High Court that the Bank came up with the plea that it wanted to have the allegations against the respondents enquired into. To us the language of Rule 11 appears quite explicit. No sanction is required from the Bank to leave the service on reaching the age of superannuation as provided in Rule 26 of the Service Rules applicable to Assistants. Rule 26 of the Service Rules clearly mandates the retirement of an employee on his attaining the age of superannuation and there

cannot be two opinions on that. We, therefore, hold that Rule 11 has no application in the case of the respondents who retired on attaining the age of superannuation. We cannot agree with the plea of the Bank that sanctioning of retirement must be understood as sanctioning of service which in terms must be understood as approval of service. Proceeding in the garb of disciplinary proceedings cannot be permitted after an employee has ceased to be in the service of the Bank as Service Rules do not provide for continuation of disciplinary proceedings after the date of superannuation. Sanction of the Bank is required only if the retirement of an employee is by any other method except superannuation. We do not think that the decision of the Andhra Pradesh High Court in T. Narasiah v. State Bank of India [(1978) 2 LLJ 173] and that of the Bombay High Court in J.K. Kulkarni v. State Bank of India [MP No. 964 of 1977 decided on 29-11-1977] have laid down good law."

(emphasis added)

Submissions on behalf of Bank/respondent

22. Counsel appearing on behalf of the respondent/Bank submitted that the appellant had remained continuously and unauthorizedly absent from service, initially from 17th January 1996 to 24th January 1996, and thereafter again from 07th February 1996 onwards till the passing of the penalty order dated 19th January 1998.

23. Counsel pointed out to the findings recorded in the penalty order to contend that the disciplinary authority had specifically noted such prolonged unauthorized absence from official duty.

24. It was further argued that although the appellant was relieved due to non-presence by the concerned branch on 29th March 1996, such relieving order was passed with clear directions directing him to report to the Zonal Office. However, appellant failed to comply with the said instructions and never reported for duty thereafter. Counsel submitted that such absence was unauthorised and was disobedience of lawful administrative directions.

25. Counsel for the Bank submitted that the disciplinary proceedings were conducted in accordance with the applicable service regulations and were based upon the appellant's continued misconduct. The primary charge against the appellant pertains to prolonged unauthorized absence and failure to resume duty despite official directions.

26. He further contended that after the dismissal order passed in 1998, appellant failed to pursue any effective statutory remedy within a reasonable period. It was argued that from 1998 till 2023, there was unexplained and extraordinary delay. Mere representations addressed to authorities do not eclipse the fact that petitioner failed to avail remedy available to him in law.

27. Further, the representation made in 2022 and Writ Petition (C) No.2532/2023 filed by appellant in 2023 were just to beat the limitation. It was also submitted that the order passed in 2023 was merely in compliance with judicial directions to consider and dispose of the appellant's representation and did not amount to reopening or reconsideration of the original dismissal order on merits. Therefore, such subsequent disposal

could not furnish a fresh cause of action for challenging the disciplinary proceedings.

28. Relying upon judgments of the Supreme Court in ***Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu*** 2014 INSC 88, counsel argued that repeated or belated representations do not extend limitation, nor can they defeat the settled principles of *delay and laches*. It was submitted that writ jurisdiction ought not to be exercised where there is inordinate lapse of almost 25 years without any explanation. Relevant paragraphs of ***T.T. Murali Babu*** (*supra*) are extracted as under for ease of reference:

> "*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 scrutinize whether the lis at a belated stage should be entertained 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. Delay does bring in hazard and*

causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. <u>We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality</u>. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

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30. ....It is apt to note here that in the said case the respondent had remained unauthorisedly absent from duty for six months and admitted his guilt and explained the reasons for his absence by stating that he neither had any intention nor desire to disobey the order of superior authority or violated any of the rules or regulations but the reason was purely personal and beyond his control. Regard being had to the obtaining factual matrix, the Court interfered with the punishment on the ground of proportionality. The facts in the present case are quite different. As has been seen from *the analysis made by the High Court, it has given emphasis on past misconduct of absence and first time desertion and thereafter proceeded to apply the doctrine of proportionality. The aforesaid approach is obviously incorrect. It is telltale that the respondent had remained absent for a considerable length of time. He had exhibited adamantine attitude in not responding to the communications from the employer while he was unauthorisedly absent. As it appears, he has chosen his way, possibly nurturing the idea that he can remain absent for any length of time, apply for grant of leave at any time and also knock at the doors of the court at his own will. Learned counsel for the respondent has endeavoured hard to impress upon us that he had not been a habitual absentee. We really fail to fathom the said submission when the respondent had remained absent for almost one year and seven months. The plea of absence of "habitual absenteeism" is absolutely unacceptable and, under the obtaining circumstances, does not commend acceptation. We are disposed to think that the respondent by remaining unauthorisedly absent for such a long period with inadequate reason had not only shown indiscipline but also made an attempt to get away with it. Such a conduct is not permissible and we are inclined to think that the High Court has erroneously placed reliance on the authorities where this Court had interfered with the punishment. We have no shadow of doubt that the doctrine of proportionality does not get remotely attracted to such a case. The punishment is definitely not shockingly disproportionate.*

31. Another aspect needs to be noted. The respondent was a Junior Engineer. Regard being had to his official position, it was expected of him to maintain discipline, act with responsibility, perform his duty with sincerity and serve the institution with honesty. This kind of *conduct cannot be countenanced as it creates a concavity in the work culture and ushers in indiscipline in an organization.*"

(emphasis added)

29. Counsel further relies upon the judgment of the Supreme Court in ***C. Jacob v. Director of Geology and Mining*** (2008) 10 SCC 115, wherein the Court held that judges should desist from ordering authorities to consider representations which, on the face of it, are stale. Relevant paragraph is extracted as under:

> "*10. Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.*"

(emphasis added)

30. Counsel for Bank further drew the attention of the Court to *Regulation 21* and *22* of the *Bank of India Pension Regulations, 1995*, which are extracted as under:

> "*21 Period of suspension – Period of suspension of an employee pending enquiry shall count for qualifying service where, on conclusion of such enquiry, he has been fully exonerated or the suspension is held to be wholly unjustified, and in other cases, the period of*

> *suspension shall not count as qualifying service unless the Competent Authority passing the orders under the Service Regulations or Discipline and Appeal Regulations or Settlements governing such cases expressly declares at the time that it shall count to such extent as such authority may declare.*
>
> *22 Forfeiture of service-*
> *(1) Resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits;...*"
>
> (emphasis added)

31. Relying upon the above-mentioned Regulations, counsel for Bank contended that appellant was dismissed from service pursuant to disciplinary proceedings on account of grave misconduct arising from prolonged unauthorized absence and failure to report for duty, his past service stood forfeited by operation of law and therefore, now appellant cannot seek pensionary benefits or retiral.

Analysis

32. Without reiterating the factual matrix of the matter, which has been encapsulated in the impugned judgment from *paragraph 2 to 13* and also synopsized hereinabove, the reasoning in the impugned judgment has been assessed by this Court in this LPA.

33. The impugned judgment notes that the order rejecting the representation dated 27th April 2023 deals with the submissions made by appellant in the previous W.P. (C) No. 2532/2023, which was directed to be treated as a representation.

34. It is in admitted position that appellant was dismissed from the service of the bank due to being unauthorisedly absent from his duties from 17th January 1996 to 24th January 1996 and from 17th February 1996 till the date of the penalty order, 19th January 1998.

35. Moreover, the *Ghaziabad Regional Office,* had contacted the appellant, who mentioned that he was not sick, but had applied for study leave *vide* application dated 28th January 1996 for the period from February 1996 to December 1997. Since the leave was not sanctioned, *Deputy Zonal Manager*, Uttar Pradesh Zone, sent a memorandum dated 8th October 1996 to the appellant at his address, i.e. *6/604, Zakir Nagar, New Delhi-110025*. The memorandum mentioned that he was absent from *Sandila* branch after no leave was sanctioned on the basis of his application dated 28th January 1996. Subsequently, *Sandila branch* relieved the appellant on 27th March 1996 to report to the Uttar Pradesh Zonal Office.

36. The memorandum also noted that no education leave existed under the Banks' Rules, and the appellant's request could not be acceded to. Accordingly, the appellant was informed that he was treated as unofficially absent, and he was advised to report to the Uttar Pradesh Zonal Office within a week of receiving the memorandum.

37. Another reminder was sent on 13th December 1996 to the appellant's residence, wherein directions to report were reiterated.

38. It was further mentioned that if the appellant failed to comply, disciplinary proceedings would be initiated against him without further notice. The appellant did not participate in inquiry proceedings and did not

submit any representation on the findings of the inquiry authority. Accordingly, the disciplinary authority passed the order of dismissal.

39. It is evident from the record that the procedure followed by the bank was in accordance with applicable service regulations. Moreover, having been dismissed in 1998, the writ petition challenging the same was filed only in 2023, after a delay of about 25 years. Even though the petition could have been dismissed on the ground of delay and laches, this Court, by order dated 28th February 2023, directed that the writ petition be treated as a representation to be decided within 6 weeks in accordance with law and regulations, with the reason and speaking order.

40. Respondent counsel's reliance on decisions in ***T. T. Murali Babu*** (*supra)* and ***C. Jacob*** *(supra)* is apposite and instructive. A delay of 25 years in challenging a dismissal from service clearly has no reasonable explanation that could be accepted. The Supreme Court in ***T. T. Murali Babu*** (*supra*) cautioned the Courts that "*remaining innocuously oblivious to such delay does not foster the cause of justice… It brings in injustice, for it is likely to affect others*".

41. The Supreme Court has rightly underscored that delays may have an impact on others' rightful interests and unnecessarily drag others into litigation, though a situation might have taken finality.

42. In the present case, there is a delay of 25 years, which is beyond any measure of reasonableness.

43. Moreover, the contention that the Deputy Zonal Manager was not the competent authority to issue the termination order dated 19th January 1998

was adequately explained in the impugned order dated 27th April 2023, wherein it was clarified that he was authorized under the *Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976*, to pass order of termination. The regulations prescribed that the Deputy Zonal Manager was the disciplinary authority for officers in Scale I and Scale II. The appellant, being an officer in Scale I, was therefore dismissed by a legitimate order passed by a competent authority.

44. It is further rightly noted in the impugned judgment that ample opportunities were given to file an appeal against a termination letter between 19th January 1998 or even to participate in the inquiry proceedings.

45. Submission of the appellant's counsel that they are still entitled to/reserve the right to receive pension, is not tenable and cannot be allowed considering *Regulation 21 and 22 of Bank of India Pension Regulations 1995*, which have been extracted in *paragraph 27* above.

46. The Court does not find any reason to intercede with the impugned judgment, and therefore the appeal stands dismissed.

47. Accordingly, the appeal stands dismissed, and the impugned judgment is upheld.

48. Pending applications, if any, are rendered infructuous.

49. Judgment be uploaded on the website of the Court.

ANISH DAYAL, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 22, 2026/sm/bp