



2026:DHC:2108-DB



\$~

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

%

Judgment reserved on: 26.02.2026

Judgment pronounced on: 16.03.2026

Judgment uploaded on: 16.03.2026

+ W.P.(C) 7541/2019

JAI PRAKASH

.....Petitioner

Through: Mr. Apurb Lal and Mr. Sunil
Kumar, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Jitesh Vikram Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Petition, the Petitioner calls upon this court to exercise extra ordinary writ jurisdiction to quash the Order dated 09.07.2018 [hereinafter referred to as the 'Impugned Order'] passed by the learned Central Administrative Tribunal [hereinafter referred to as 'the Tribunal'] in O.A. No.1884/2018, whereby the Original Application ('OA') preferred by the Petitioner came to be dismissed on the ground of unsatisfactory explanation of delay.

2. By way of the said OA, the Petitioner had challenged the Order dated 28.07.2014 [hereinafter referred to as 'Dismissal Order'] passed by Respondent No.2, Lt. General, GOC, Delhi Area [hereinafter referred to as 'Disciplinary Authority'], dismissing him from service

Signature Not Verified

Signed By: SAVITA

PASRICHA

Signing Date: 16.03.2026 W.P.(C) 7541/2019

17:15:28



2026:DHC:2108-DB



from the post of Conservancy Safaiwala (Sweeper) on account of prolonged and unauthorized absence from duty.

3. Thus, the limited question which arises for consideration before this Court is whether the Tribunal committed any error in declining to condone the delay in filing the OA and consequently dismissing the same without entering into the merits of the disciplinary proceedings.

FACTUAL MATRIX:

4. In order to appreciate the controversy in its proper perspective, it is necessary to notice the relevant facts.

5. The Petitioner was appointed as a Conservancy Safaiwala (Sweeper) under the Disciplinary Authority on 28.11.1982 and was posted at Station Headquarters, Delhi Cantt. The record reveals that with effect from 14.05.2012, the Petitioner absented himself from duty without prior permission or sanctioned leave.

6. In view of his continuous absence, Letter bearing No.8711/Civ/93/A dated 09.07.2012 and another Letter dated 10.07.2013 were issued directing the Petitioner to report back to duty forthwith and to furnish a written explanation for his absence. Despite the same, the Petitioner did not resume duty. Subsequently, Station Headquarters, Delhi Cantt., issued letters bearing No.54/12/Civs (Jai Prakash) dated 28.09.2013 and 12.11.2013, once again calling upon the Petitioner to report for duty and submit a satisfactory explanation. The record reflects that these communications were duly dispatched. However, the Petitioner failed to respond in any meaningful manner.



2026:DHC:2108-DB



7. As the Petitioner continued to remain absent, disciplinary proceedings were initiated against him on the charge of continuous and unauthorized absence from duty with effect from 14.05.2012. During the course of the inquiry, Daily Order Sheets and show cause notices were issued to the Petitioner, affording him the opportunity to participate in the proceedings. The material placed on record indicates that registered communications sent to the Petitioner were refused.

8. The Petitioner relied upon certain medical documents to justify his absence, however, he did not participate in the disciplinary proceedings thereafter and the inquiry proceeded *ex-parte*. The Disciplinary Authority, upon consideration of the medical documents, found that the said documents were not issued by a CGHS/Government Hospital or Government-empanelled hospital, nor by a Government-registered medical practitioner. It was further noted that the documents were submitted after an inordinate delay of nearly one year and eleven months from the date of initial absence and did not satisfactorily cover the entire period of unauthorized absence. The explanation was thus found unsatisfactory.

9. Upon conclusion of the disciplinary proceedings and after examining the material on record, including statements of witnesses, the Disciplinary Authority *vide* the Dismissal/Order held that the Petitioner had remained absent from duty without authorization since 14.05.2012, that he was a habitual absentee, and that he had failed to participate in the inquiry proceedings despite adequate opportunity.

10. Thereafter, the Petitioner did not immediately challenge the



2026:DHC:2108-DB



Dismissal Order. After a lapse of nearly four years, he approached the Tribunal by filing O.A. No.1884/2018, accompanied by an application seeking condonation of delay. The principal ground urged in the application was that the Dismissal Order had not been communicated to him and that he became aware of the same only upon obtaining a copy pursuant to the issuance of a legal notice to the Disciplinary Authority.

11. The Tribunal, *vide* the Impugned Order dated 09.07.2018, dismissed the OA on the following grounds:

- i. The explanation furnished by the Petitioner regarding non-communication of the Dismissal Order lacked credibility;
- ii. The Petitioner had admitted that he did not report for duty after the date of dismissal and had taken inconsistent pleas, including that he was restrained from performing duties, which undermined his plea of ignorance;
- iii. The delay was not supported by any cogent or convincing material so as to constitute “sufficient cause” for condonation; and
- iv. The conduct of the Petitioner did not reflect due diligence in pursuing his remedy.

12. Aggrieved by the Impugned Order dated 09.07.2018 dismissing O.A. No.1884/2018, the present Writ Petition has been preferred.

CONTENTION OF THE PARTIES:

13. Heard learned counsel for the parties and perused the record.

Signature Not Verified

Signed By: SAVITA
PASRICHA

Signing Date: 16.03.2026 W.P.(C) 7541/2019
17:15:28



2026:DHC:2108-DB



14. Learned counsel for the Petitioner submits as under:

- i. The Tribunal erred in dismissing the OA solely on the ground of delay without properly appreciating the explanation furnished by the Petitioner;
- ii. The Dismissal Order was never communicated to the Petitioner and he became aware of the same only upon issuance of a legal notice to the Disciplinary Authority, pursuant to which a copy was supplied;
- iii. In the absence of communication of the Dismissal Order, the period of limitation could not have commenced, and therefore sufficient cause was made out for condonation of delay; and
- iv. The Petitioner had remained absent due to medical reasons and had submitted medical documents in support thereof, which were not properly appreciated by the Disciplinary Authority.

15. *Per contra*, learned counsel for the Respondents submits as under:

- i. The Tribunal rightly exercised its discretion in declining to condone the inordinate delay of nearly four years in filing the OA;
- ii. The plea of non-communication of the Dismissal Order is devoid of merit, as repeated communications during the disciplinary proceedings were duly dispatched to the Petitioner at his recorded address, and the Dismissal Order was also sent through official channels, including through the concerned SHO;
- iii. The Petitioner admittedly did not report for duty after



2026:DHC:2108-DB



14.05.2012 and chose not to participate in the disciplinary proceedings despite issuance of Daily Order Sheets and show cause notices, some of which were refused by him;

iv. The medical documents relied upon by the Petitioner were submitted after an inordinate delay of nearly one year and eleven months, were not issued by a CGHS/Government Hospital or Government-registered medical practitioner, and did not cover the entire period of absence;

v. That habitual and prolonged unauthorized absence constitutes grave misconduct. Reliance is placed upon the judgment of the Supreme Court in *Delhi Transport Corporation v. Sardar Singh*¹.

16. No other submissions have been made on behalf of the parties.

ANALYSIS AND FINDINGS:

17. The controversy in the present matter lies in a narrow compass. The Tribunal has not examined the merits of the disciplinary proceedings. The OA was dismissed at the threshold on the grounds of delay. The primary issue, therefore, is whether the Tribunal committed any error in declining to condone the delay.

18. It is settled law that condonation of delay is not a matter of right. The applicant must demonstrate “sufficient cause” which prevented him from approaching the Court within the prescribed period. The expression “sufficient cause” is elastic, but it cannot be stretched to cover negligence, inaction or lack of *bona fides*.

¹2004 INSC 251



2026:DHC:2108-DB



19. The discretion to condone delay is judicial in nature. Where such discretion is exercised upon consideration of the material on record, interference in writ jurisdiction is warranted only if the decision is perverse or suffers from manifest illegality.

20. It is equally well settled that limitation does not begin to run unless the Impugned Order is communicated. However, mere assertion of non-communication is not sufficient. The plea must inspire confidence and be supported by surrounding circumstances.

21. In the present case, the Dismissal Order was passed on 28.07.2014. The Petitioner approached the Tribunal only in the year 2018. The delay is thus substantial. The sole explanation furnished is that the Dismissal Order was not communicated and that the Petitioner became aware of it only after issuance of a legal notice.

22. The Tribunal examined this explanation in light of the record. The record discloses that the Petitioner had remained continuously absent from 14.05.2012. Repeated communications were issued directing him to resume duty and submit explanations. Daily Order Sheets and show cause notices were dispatched. Some of the registered communications were refused by the Petitioner.

23. The Respondents have also placed material to show that the Dismissal Order was sent through official channels, including through the concerned SHO. The Tribunal found that the explanation of non-communication lacked credibility.

24. Significantly, the Petitioner admitted that he did not report for



2026:DHC:2108-DB



duty after the date of dismissal. He also took inconsistent pleas, including that he was restrained from performing his duties. These circumstances were rightly noticed by the Tribunal. A person who remains absent for years and does not report for duty cannot lightly claim complete ignorance of the fate of disciplinary proceedings.

25. Keeping in view the foregoing discussion, this Court finds no perversity in the Tribunal's conclusion that the explanation did not constitute "sufficient cause". The conduct of the Petitioner does not reflect due diligence. On the contrary, it reflects prolonged indifference.

26. Further, though the merits were not examined by the Tribunal, learned Counsel for the Petitioner sought to urge that the absence was on medical grounds and that the inquiry proceeded *ex parte*. This Court is conscious that it is not sitting in Appeal over the disciplinary findings. However, even on a *prima facie* scrutiny, no manifest injustice is demonstrated, which would warrant interference despite the delay.

27. The record reveals that the medical documents were submitted after nearly one year and eleven months from the date of absence. The Disciplinary Authority recorded that the documents were not issued by a CGHS/Government Hospital or a Government-registered medical practitioner and did not cover the entire period of absence. These findings are not shown to be arbitrary.

28. The inquiry proceeded *ex parte* only after issuance of repeated notices and Daily Order Sheets. The Petitioner chose not to



2026:DHC:2108-DB



participate. An employee cannot abstain from proceedings and thereafter contend violation of natural justice.

29. Furthermore, the Supreme Court in **Sardar Singh** (*supra*) has held that when an employee absents himself from duty without sanctioned leave for a long period, it *prima facie* shows a lack of interest in work. The Court further observed that habitual absence is a factor which establishes negligence and lack of devotion to duty, and that the employer is entitled to draw appropriate conclusions in departmental proceedings.

30. The principle laid down in the aforesaid judgment squarely applies to the present case. The Petitioner remained absent continuously. He did not bring material to show that his absence was duly sanctioned. He did not participate in the inquiry. The Disciplinary Authority examined witnesses and recorded findings. The charge of habitual and prolonged unauthorized absence cannot be said to be without basis.

31. Pertinently, in exercise of jurisdiction under Article 226 of the Constitution of India, this Court does not sit in Appeal over the decision of the Tribunal. Interference is warranted only where the discretion exercised is shown to be arbitrary, perverse, or suffering from manifest illegality. Where the Tribunal has considered the material on record and assigned cogent reasons for declining condonation, this Court would not substitute its own view merely because another conclusion may be possible. No such jurisdictional error is made out in the present case.



2026:DHC:2108-DB



CONCLUSION:

32. Keeping in view the aforesaid, this Court finds no infirmity in the Impugned Order dated 09.07.2018 dismissing the OA on the ground of unsatisfactory explanation of delay.

33. Accordingly, the present Petition is dismissed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

MARCH 16, 2026
sp/shah

Signature Not Verified

Signed By: SAVITA
PASRICHA

Signing Date: 16.03.2026 W.P.(C) 7541/2019
17:15:28