

**10/09
2026**

**AD/31/18
266312
NANDY**

(DO)

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA/24298/2026

**ALOK KUMAR BEHERA
VS
COAL INDIA LIMITED & ORS.**

Mr. Piush Chaturvedi, Advocate

Mr. Vinaayak Chatruvedi, Advocate

.....for the Petitioner

Ms. Amrita Pandey, Advocate

.....for the Respondent

1. Affidavit of service, as filed, be kept with the record.
2. The petitioner is aggrieved that in spite of the order dated 08.07.2026, to consider the appeal on merits, the same has been dismissed on the ground that there was no prayer for condoning the delay in filing the appeal.
3. The surrounding circumstances of this case have become relevant at this juncture.
4. The petitioner was subjected to certain criminal proceedings, initiated sometime in 2016, which became the basis whereof the employer of the petitioner, the respondent no. 1 herein, initiated disciplinary proceedings against the petitioner which were pending. The basis of the disciplinary proceeding was the criminal proceeding initiated against the petitioner.
5. The criminal proceeding culminated into a conviction on 18.05.2022, thereby prompting the respondent no. 1, by its order dated 25.11.2022, to terminate the services of the petitioner.

6. This situation continued, even though the petitioner had preferred an appeal from the order of conviction dated 18.05.2022. It was only on 23.12.2025 that the appeal was finally disposed of, upon hon'ble acquittal of the petitioner. The petitioner was released after acquittal on 04.01.2026, and immediately thereafter proceeded to file an appeal on 05.01.2026.
7. Since the appeal had not been heard, a writ petition had been carried to this Hon'ble Court which was disposed of by the order dated 08.07.2026, directing essentially the authorities to dispose of the pending appeal on merits.
8. The appeal has now been disposed of by the order dated 19.08.2026 on the ground that the delay in preferring the appeal could not be condoned. It is this order which has been assailed in this writ petition.
9. Mr. Chaturvedi, learned Senior Advocate appearing for the petitioner, submits that there is no question of delay in view of the decisions of the Hon'ble Supreme Court of India reported in ***AIR 2009 SC 3162 (Basanti Prasad Vs. Chairman, Bihar School Examination Board & Ors.)*** and in ***(2013) 11 SCC 67 (State Bank of India and another Vs. Mohammed Abdul Rahim)***.
10. He further submits that since the direction of this Hon'ble Court on 08.07.2026 was to dispose of the appeal on merits, the authorities ought to have disposed of the same on merits without insisting on the condonation of delay.

11. Ms. Pandey, learned Advocate appearing for the authorities, submits that even though the time spent in the criminal proceedings and the final acquittal may not be construed as a delay, the time spent thereof has to be condoned. It may not necessarily be condonation of delay but would certainly be in line with Rule 41.1 of the Coal India Executives' Conduct, Discipline and Appeal Rules. She further submits that the authorities will condone the timelines and hear the appeal on merit; however, the application has to be made by the petitioner.
12. In view of the submissions made by the learned Advocates appearing for the parties, it appears that the application is a mere formality and the timelines between the order of conviction, the order of dismissal from service and filing of the appeal on 18.05.2022, 25.11.2022, and 05.01.2026 respectively will be condoned as a matter of course, subject to the petitioner filing an application.
13. As held in the decisions of the Hon'ble Supreme Court as relied upon by the petitioner, the time spent for pursuing or defending the criminal proceedings will not amount to a delay which ought to be condoned.
14. The petitioner is directed to make an application in line with Rule 41.1 of the aforesaid Rules to enable the authorities to exercise jurisdiction. The authorities on the basis of such application will condone the delay and take up the matter on merits.

15. The authorities will dispose of the entire appeal on merits by 31.10.2026 upon granting adequate opportunity of hearing to the petitioner with due prior notice.
16. The reasoned order by the appellate authority will be communicated to the petitioner within a period of 10 days thereafter.
17. If the appellate authority comes to a finding in favor of the petitioner, consequences thereof shall follow.
18. I make it clear that I have not gone into the merits of the case.
19. With these observations as afore-stated, the writ-petition is **disposed of**. No order as to costs.

(Reetobroto Kumar Mitra, J.)