

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC (WA) No. 22 of 2020

1. The State of Manipur, represented by the Principal Secretary (Finance), Government of Manipur.
2. The Director, Treasuries and Accounts, Government of Manipur.

Applicants

Vs.

Shri L. Ango Anal, aged about 59 years, S/o. Late Vonal, a resident of Lambung Village, P.O. & P.S. Chandel, Chandel District, Manipur.

Respondent

BEFORE
**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR. JUSTICE A BIMOL SINGH**

ORDER (ORAL)

***Sanjay Kumar (C.J.):
20.01.2023.***

[1] By way of this miscellaneous case, the State of Manipur and the Director, Treasuries and Accounts, Government of Manipur, seek condonation of the delay of 348 days in presenting an appeal against the order dated 13.12.2018 passed by a learned Judge of this Court allowing W.P. (C) No. 578 of 2013.

[2] Heard Mr. M. Devananda, learned Additional Advocate General, Manipur, appearing for the applicants; and Mr. RS Reisang, learned senior counsel, appearing for the respondent, viz., the petitioner in W.P. (C) No. 578 of 2013.

[3] Though this Court would normally not look into the merits of the case while considering a condone delay petition, the case on hand stands on a different footing, warranting reference being made to the merits also. More so, as Mr. M. Devananda, learned Additional Advocate General, Manipur, contends that the writ petitioner secured the order in question by playing fraud upon the Court.

[4] W.P. (C) No. 578 of 2013 was filed by the respondent herein challenging the order dated 18.03.2005 of the Director, Treasuries and Accounts, Manipur, placing him under suspension in exercise of power under Rule 10(2)(a) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. In this context, Mr. M. Devananda, learned Additional Advocate General, Manipur, would allege that he committed fraud as no mention was made by him in the body of the writ affidavit that he was convicted in Special Trial Case No. 5 of 1990 by the learned Special Judge, Manipur West, *vide* judgment dated 25.01.1992.

[5] No doubt, there is no specific averment made in the body of the affidavit to that effect but the impugned order of suspension dated 18.03.2005, which was filed as Annexure-I in the writ petition, itself began with the phrase: 'Whereas a disciplinary proceeding is contemplated against Shri. L. Angno Anal, Peon of Chandel Treasury on his detention in the custody'. Further, Annexure-II in the writ petition was the letter received by the Director, Treasuries and Accounts, Manipur, from the wife of the writ petitioner, stating that he had been placed under suspension in connection with his incarceration from 12.05.2004 and requesting release of subsistence allowance. Another Annexure filed in the writ petition was the communication dated 29.12.2005 addressed by the Director, Treasuries & Accounts, Manipur, to the Joint Secretary (FX/TRY), Government of Manipur, wherein he specifically referred to the conviction of the writ petitioner in Trial Case No. 5 of 1990 and his incarceration w.e.f. 12.05.2004. He also referred to the fact that the matter had been sent to the Administrative Department for advice as to whether the services of the writ petitioner should be terminated, perhaps w.e.f. the date of his police custody on 12.05.2004, and stated that no decision had been conveyed till date.

[6] That apart, the order dated 13.12.2018 passed by the learned Judge in W.P. (C) No. 578 of 2013 specifically referred to the fact that the writ petitioner

was under detention w.e.f. 12.05.2004 in terms of his conviction, in para 3 thereof. Again, in para 6, the learned Judge noted that the order dated 18.03.2005 suspending the writ petitioner was in contemplation of disciplinary proceedings in view of his conviction in Special Trial Case No. 5 of 1990. Therefore, there was no suppression, as such, of the fact that the writ petitioner suffered conviction and incarceration. The impugned order of suspension itself stated so. In the light of these facts, the mere failure on the part of the writ petitioner to make a specific averment in that regard in the writ affidavit was of no consequence as the documents filed by him therewith clearly brought out this fact and the same was duly taken note of by the learned Judge while allowing the writ petition.

[7] Admittedly, no disciplinary proceedings were actually initiated against the writ petitioner after his suspension from service in purported contemplation of initiation of disciplinary proceedings. Rule 10(2)(b) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, provides that when a Government servant is convicted for an offence and sentenced to imprisonment in excess of 48 hours and is not dismissed forthwith from service or removed or compulsorily retired consequent upon such conviction, he shall be deemed to have been placed under suspension with effect from the date of his conviction. In the case on hand, the conviction dates back to 25.01.1992 but the writ petitioner was subjected to incarceration pursuant thereto from 12.05.2004. Taking that fact into account, the order of suspension was issued on 18.03.2005 but the same did not lead to initiation of disciplinary proceedings even till date.

[8] As we do not find merit in the contention of Mr. M. Devananda, learned Additional Advocate General, Manipur, that the writ petitioner is guilty of playing fraud upon the Court, we find no reason to look into or cite the case law relied upon by the learned Additional Advocate General, Manipur, in the context of fraud being played upon the Court and its consequences.

[9] Apart from the contention based on the alleged fraud committed by the writ petitioner, the miscellaneous case does not offer any valid or tenable reasons to explain the delay, which is shown as short of a year. The detailed tabular statement in para 5 of the miscellaneous case, running into 64 entries and spanning nearly 13 pages, merely reflects that the authorities were busy pushing paper but nothing worth the name was done during that period to justify the long delay in the filing of the appeal. That apart, the applicants are not justified in deducting the time taken by them to obtain a certified copy of the judgment under appeal, inasmuch as the very application therefor was submitted long after expiry of the limitation period of 30 days. Therefore, the delay, if calculated correctly, would be in excess of a year. It is well settled that it would not be open to the authorities to cite bureaucratic red tape and habitual paper-pushing as justifiable excuses to seek condonation of such long delay. More so, when they have nothing to offer on merits in the appeal sought to be filed.

 We, therefore, find no grounds to condone the delay in the filing of the appeal. MC (WA) No. 22 of 2020 is accordingly dismissed. In consequence, the unnumbered writ appeal shall stand rejected.

 In the circumstances, there shall be no order as to costs.

Sapana

JUDGE

CHIEF JUSTICE