

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 575 of 2015

Bhaiyalal Gendre S/o Shri Budhari Das Gendre Aged About 29 years Working As Assistant Teacher (Panchayat), Primary School Sonbarsa, P.S. Kawardha, District Kabirdham, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Commissioner, Durg, District Durg, Chhattisgarh
3. Collector, Kabirdham, District Kabirdham, Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat Kawardha, District Kabirdham, Chhattisgarh

---- Respondents

For Petitioner	:	Shri CJK Rao, Advocate
For Respondent/State	:	Shri Vinod Tekam, Panel Lawyer

Order On Board

05/08/2015

Looking to the nature of order passed against the petitioner, this matter is heard finally.

1. The petitioner is aggrieved by impugned order dated 16.7.2015 by which petitioner's applicant for restoration of revision earlier dismissed for want of prosecution, has been dismissed.
2. Learned counsel for the petitioner submits that for reasons stated in his application, a just and sufficient cause is made out why appearance could not be made on the date when the case was called on for hearing. However, the revisional Court has adopted unduly restricted approach and has shut the doors by dismissing the matter without affording an opportunity of hearing on merits.
3. Learned counsel for the State submits that as the order shows, proper justification was not given by the petitioner, which resulted in dismissal of application for restoration .
4. After going through the application filed by the petitioner seeking restoration, it is found

that the petitioner had come out with ample justification. The rejection of application for restoration has the effect of closing of the doors and opportunity to assail the order of termination from service on its own merits. As far as possible, unless it is found that non-appearance was only intended to delay and protract the proceedings, ordinarily prayer for restoration should be considered with a liberal attitude. A detailed application having been filed by the petitioner, I am of the view that the revisional authority ought to have adopted a liberal approach while considering the petitioner's application, which has not been done in the present case. Interest of justice demands that the petitioner should be afforded an opportunity to assail the order of termination on merits.

5. In view of above consideration, I am inclined to interfere with the impugned order as it has resulted in miscarriage of justice.
6. The petition is accordingly allowed. Impugned order dated 16.7.2015 is set aside. The petition pending before the Commissioner shall be treated as restored and the same may be decided in accordance with law, on its own merits.

Sd/-

(Manindra Mohan Shrivastava)
Judge