

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4651 of 2016**

Ramnarayan Sahu S/o Late Shri Puniram Sahu Aged About 60 Years Posted As Area Assistant, At Present Incharge Paddy Collection Centre, Mopka (Open), Chhattisgarh State Cooperative Marketing Federation Limited, Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative Societies Mahanadi Bhawan, Mantralaya New Raipur, Post Office & Police Station Naya Raipur, District Raipur Chhattisgarh.
2. Chhattisgarh State Cooperative Marketing Federation Limited The Managing Director, Chhattisgarh, Chhattisgarh State Cooperative Marketing Federation Limited, 880, Civil Lines, Head Office, Raipur Chhattisgarh.
3. Secretary, Chhattisgarh State Cooperative Marketing Federation Limited 880, Civil Lines, Head Office, Raipur Chhattisgarh.
4. Manager (Establishment), Chhattisgarh State Cooperative Marketing Federation Limited 880, Civil Lines, Head Office, Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri V. R. Tiwari, Advocate
For State/Respondent No.1	:	Shri S.P. Kale, Dy. A.G, on advance copy.
For Respondent No.2 to 4	:	Shri B.D. Guru, on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****09/09/2016**

Heard.

2. This petition has been filed by the petitioner being aggrieved by the order of penalty passed on 05.03.2016 and dismissal of his appeal as barred by limitation vide order dated 17.08.2016.

3. Learned counsel for petitioner submits that by order dated 05.03.2016, penalty of serious financial impact has been imposed upon the petitioner. Against the order of penalty, the petitioner preferred departmental appeal. He submits that even though, the petitioner has sufficient ground for condonation, the appeal has been dismissed as barred by limitation, which deprived the petitioner opportunity of consideration of his appeal on its own merits. According to the petitioner, he has raised substantial grounds on merits, which ought to be examined by the competent appellate authority instead of dismissal of appeal and to pass orders on merits.

4. On the other hand, learned counsel for respondents No.2 to 4 submits that as departmental appeal preferred by the petitioner was barred by limitation, the competent appellate authority passed the order.

5. It is found that the petitioner has been subjected to penal action and recovery, which is going to seriously prejudice with financial impact and order will result in recovery from salary. The petitioner is an officer of lower rank i.e. Area Assistant. Looking to the nature and extent of impact of the penal order, it would have been in the fitness of things and interest of justice that the petitioner's appeal ought to be considered on merits, particularly taking into consideration that the period of delay cannot be said to so much as to dismiss the appeal as barred by limitation without granting opportunity to the petitioner to contest the matter on merits.

6. Therefore, in these circumstances, I am inclined to direct the respondent No.2-competent appellate authority to examine the merits of petitioner's appeal, after affording due and proper opportunity of hearing to the petitioner and thereafter pass appropriate orders in the matter.

7. With the aforesaid observation observation, this petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge