

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.411 of 2017**

(Arising out of judgment/order dated 16.8.2016 in Case No.W.P.(S)
No.1256/2014 of the learned Single Judge

Neha Sahu, D/o Shri T. R. Sahu, Aged About 24 Years, C/o Quarter No. 6-A , Street No. 02 , Sector - 8 Bhilai, Police Station Kotwali, District Durg Chhattisgarh.

---- Appellant**Versus**

1. Chhattisgarh State Civil Supplies Corporation Ltd. Through Its Chairman Hitwad Parisar, Avanti Vihar Colony H. Q. No. Raipur , Raipur Chhattisgarh.
2. The Managing Director , Chhattisgarh State Civil Supplies Corporation Ltd. Hitwad Parisar , Avanti Vihar Colony , H. Q. No. Raipur , Raipur Chhattisgarh.
3. The District Manager, Chhattisgarh State Civil Supplies Corporation Ltd. District Office Bemetara Durg Road , Post Office Bemetara District Bemetara Chhattisgarh.

---- Respondents

For Appellant:	Shri H.B. Agrawal, Sr. Advocate along with Shri Sushil Sahu, Advocate.
For Respondents:	Shri Animesh Tiwari, Advocate.

Hon'ble The Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****29/11/2017**

1. Heard learned Senior Advocate for the Appellant and learned Counsel for the Respondents.
2. This appeal is against the order in W.P.(S) No.1256/2014, which was decided along with a bunch matter. It stands with an application seeking condonation of delay of 383 days.
3. As is evident from the impugned judgment, W.P.(S) No.1256/2014 and

certain other cases were identified in the impugned judgment as B-Group decisions. Through judgment rendered by the Division Bench on 09/11/2016 in W.A. No.433/2016 and connections, different appeals arising from the impugned common judgment were decided. In para 9 of that judgment in the Writ Appeals, the classification of the Writ Petitions by the learned Single Judge into Group-A Petitions, Group-B Petitions and Group-C Petitions was maintained. The Appeals, which related to Group-A and Group-C, were allowed in part granting certain reliefs to those persons. It was noted therein that no Appeals have been filed by the employees included in Group-B Petitions.

4. Therefore, the Appeal in hand arising from W.P.(S) No.1256/2014 may have to be treated differently. It is by one among those persons who are directly recruited to the post of Assistant Manager as per order dated 19/11/2012. The Appellant and similar other persons were discharged from service on 22/24.02.2014 for unsatisfactory service during the probation period. That was challenged. They also challenged the first part of condition No.14 of appointment order dated 19/11/2012 as illegal which enacted such action.

5. The plea of the Appellant/Writ Petitioner and others was turned down by the learned Single Judge noticing that the termination of a probationer is termination simplicitor not amounting to punishment and therefore, no enquiry was contemplated. The order in such case has to be treated as non-stigmatic. The learned Single Judge referred to the decisions of the Apex Court in ***Krishnadevaraya Education Trust and Another vs. LA Balakrishna*** (2001) 9 SCC 319, ***Pavanendra Narayan Verma vs. Sanjay Gandhi PGI of Medical Sciences and Another*** (2002) 1 SCC 520 and ***Rajesh Kumar Shrivastava vs. State of Jharkhand and Others*** (2011) 4

SCC 447. It was accordingly held that the persons like the Appellant before us, who were classified as Group-B Petitions by the learned Single Judge, had no sustainable ground and no right to hold the post. The challenge to the clause relating to the probation period and the power of the employer to disengage an unsatisfactory probationer also fails. The plea that notice pay of one month was not given cannot be entertained in this belated Appeal.

6. The Appeal is barred by limitation with delay of more than a year. It is delayed by 383 days. The only reason attributed for the delay is that the case file was misplaced and could not be traced in time. We may note that the Writ Appeals by persons who are Petitioners in the same bunch of matters were decided by the Division Bench way back on 9.11.2016. At this point of time, we do not find any sufficient cause to condone the delay.

7. For the aforesaid reasons, we do not find any justifiable ground to condone the delay in filing this Appeal or to interfere with the impugned judgment on merits.

8. Resultantly, the application seeking condonation of delay and the Writ Appeal are dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE