

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 8011 of 2018**

Vyasnarayan Thakur S/o Shri Binjhwar Singh Thakur Aged About 46 Years
 Posted As Area Assistant, Chhattisgarh State Cooperative Marketing
 Federation Limited, Paddy Procurement Center, Bhathagaon (Kurud),
 District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative Societies Mahanadi Bhawan, Mantralaya New Raipur, Post Office And Police Station Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Chhattisgarh State Cooperative Marketing Federation Limited The Managing Director, Chhattisgarh, Chhattisgarh State Cooperative Marketing Federation Limited, Sixth Floor, Tower C, Commercial Complex, C.B.D. Sector - 21, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Secretary, Chhattisgarh State Cooperative Marketing Federation Limited, Sixth Floor, Tower C, Commercial Complex, C.B.D. Sector - 21, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Manager (Establishment) Chhattisgarh State Cooperative Marketing Federation Limited, Sixth Floor, Tower C, Commercial Complex, C.B.D. Sector - 21, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. The District Managaer Chhattisgarh State Cooperative Marketing Federation Limitd, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh
6. The Seninor Account Officer Chhattisgarh, Chhattisgarh State Cooperative Marketing Federation Limited, Sixth Floor, Tower C, Commercial Complex, C.B.D. Sector - 21, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For petitioner	:	Shri V. R. Tiwari, Advocate.
For State	:	Shri Dhiraj Wankhede, GA
For Respondents No. 2 to 6	:	Shri B. D. Guru, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/12/2018**

1. The challenge in the present writ petition is to the order passed by the respondent No. 2 while deciding the appeal dated 03/01/2018. It is the case where the petitioner was subjected to department proceedings and was inflicted with a punishment on 04/02/2017 and 16/03/2017. The respondents imposed a punishment of withholding two advanced increments non-cumulative effect. Against both these orders the petitioner preferred an appeal on 28/09/2018. The

said appeal has been summarily rejected by the appellate authority on the ground of delay. The contention of the petitioner is that since there were two orders of punishment passed against the petitioner that is on 04/02/2017 and 16/03/2017 and if the appellate authority does not decide appeal on merits. There is all possibility that the respondent authorities can use the order of punishment at a later stage against the petitioner, detrimental to his interest. According to the petitioner he could not prefer an appeal against two orders of punishment under certain compelling circumstances prevailing then and also on the oral assurance given by the department. He further contended that the appellate authority should have been very pragmatic while considering the appeal though having filed at a belated stage. Thus prayed for the matter to be remitted back to the appellate authority by deciding the same on merits ignoring the aspect of limitation.

2. Counsel appearing for the respondent, however, opposing the petition submits that there is no justifiable reasons assigned by the petitioner for the delay in filing of the appeal and since there is a inordinate unexplained delay, the petitioner cannot get an advantage on the same and order passed by the authorities cannot be said to be in any manner arbitrary or bad in law.

3. Having heard the contentions put forth on either side of the parties and perusal of the records true it is that the appeal preferred by the petitioner before the appellate authority was beyond a period of one year and seven month. However what cannot be lose sight of is that the petitioner is a low paid class III employee in a department, a person who generally does not have sufficient knowhow of the far reaching consequences of even a minor punishment which has been inflicted by the employer. In the instant case, it is not just only one order of punishment but there are two orders of punishments inflicted against the petitioner. More over, it cannot be ruled out that the respondents, may at a later stage use these minor punishments against the petitioner adverse to the interest of the petitioner. May be by even resorting for recovery of the loss caused to the department on account of alleged misconduct on his part.

4. Taking into consideration the possibility of far reaching consequences at a later stage this Court is of the opinion that the appellate authority while deciding the appeal should had been little bit more pragmatic. Considering the fact that the petitioner is law paid class III employee and that it was not just the petitioner alone who has been charged with similar charge sheet, there have been similar charge sheet issued to a large number of persons and cases are already pending before the authority concerned.

5. Given the facts, the impugned order Annexure (P-1) dated 03/11/2018 to the aforesaid extent stands set aside/quashed and the matter stands remitted back to the appellate authority for deciding the case ignoring the aspect of limitation and let the appellate authority take a decision on the appeal within a period of four months from the date of receipt of copy of this order.

6. With the aforesaid direction, the writ petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Rohit