

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4623 of 2019

Madhusudan Yadav S/o Late Shri Tekram Yadav Aged About 57 Years
Posted As Field Assistant, Chhattisgarh Cooperative Marketing Federation,
Presently Posted At Office Of The District Marketing Officer, Kawardha,
District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham),
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Co -
Operative Societies, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh
2. Managing Director, Chhattisgarh State Marketing Federation, 880,civil
Lines, Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Secretary, Chhattisgarh State Marketing Federation, 880, Civil Lines,
Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Manager (Establishment) Chhattisgarh State Marketing Federation,
880, Civil Lines, Raipur, District Raipur Chhattisgarh., District : Raipur,
Chhattisgarh
5. District Marketing Officer, Markfed, Kawardha, District Kabirdham
Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vikas Dubey, Advocate.
For State	:	Ms. Smita Jha, PL
For Repondent/s	:	Mr. P. N. Bharat, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/06/2019

1. The petitioner in the present writ petitioner has challenged the order
passed by respondent No. 2 exercising the appellate powers dated
29.05.2019.

2. Facts relevant for disposal of the writ petition is that the petitioner was working under the respondent No. 2 on the post of Field Assistant. Petitioner was inflicted with a punishment of stoppage of two annual increment with cumulative effect along with order of recovery on 18.01.2019.
3. Under the service regulations governing the service conditions of the petitioner a remedy of departmental appeal is available and the appellate authority is respondent No. 2. The period prescribed for preferring the appeal against the order of punishment is 30 days. 30 days period got over on 17.02.2019. The petitioner however could not prefer an appeal within 30 days. The petitioner preferred an appeal on 05.03.2019 and as such the appeal was delayed by 45 days. The petitioner along with the appeal had preferred an application for condonation of delay. However vide the impugned order Annexure P-1 the appellate authority i.e. respondent No. 2 has rejected the appeal only on technical ground of same having been filed beyond the prescribed period of limitation.
4. It is always expected that the appellate authority in the department takes a pragmatic view on an appeal which is preferred against an order of punishment. What has to be seen is whether the appellate authority has got power to condone the delay or not? Moreover, it also has to be seen whether delay that has been caused was inordinate or not?
5. In the instant case, from the facts as it reflected from the writ petition admittedly the petitioner was a low paid employee class III employee working as a Field Assistant. The delay in filing of the appeal is only

of 45 days, it cannot under any circumstances be held to be an inordinate delay. The respondent No. 2 appellate authority has got all the powers to condone the delay and petitioner also had moved an application for condonation of delay in support of his belated appeal. Another aspect which cannot be lost sight of is the punishment which has been inflicted upon the petitioner as an effect of a major punishment which would have a far reaching consequence and also would affect his retiral dues. This also should have been taken note of by the appellate while considering the appeal and should have condoned the delay and have decided the appeal on its merits.

6. Considering the aforesaid facts and circumstances of the case, this Court is of the opinion that the impugned order Annexure P-1 so far as it being rejected only on the ground of delay is too harsh and rigid approach on the part of the respondent No. 2. The impugned order to that extent stands set aside/quashed and the matter stands remitted back to the respondent No. 2 appellate authority for deciding the appeal that petitioner had preferred on 05.03.2019 on its merits.
7. It is expected that appellate authority shall decide the appeal of the petitioner on its merits at the earliest without any further delay. Petitioner would also be at liberty to approach the appellate authority for any interim relief if he so wants.
8. With the aforesaid observation, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge