

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.5215 OF 2019**

Omprakash Dubey S/o Rajaram Dubey Aged About 38 Years Peon,
District Cooperative Central Bank, Bilaspur, R/o Lalpur (Kala), Patralaya
Sukli, Tahsil- Lormi, District- Mungeli, Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Cooperative Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. The Joint Registrar Cooperative Societies, Raipur Division, Raipur, Chhattisgarh.
3. The District Cooperative Central Bank Bilaspur, Chhattisgarh.
4. The Chief Executive Officer District- Cooperative Central Bank Limited, Bilaspur, Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Ramakant Pandey, Advocate.
For Respondent-State	:	Ms. Sunita Jain, Govt. Advocate.
For Respondents No.2&3	:	Ms. Seema Singh, Advocate.
For Respondent No.4	:	Shri Jitendra Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17.07.2019

1. The challenge in the present writ petition is to the order Annexure P-1 dated 20.06.2019 passed by the respondent no.2. Vide the impugned order, respondent no.4 has rejected the dispute raised by the petitioner under Section 55 (2) of the Chhattisgarh Cooperative Societies Act, 1960 (hereinafter referred as "the Act of 1960") on the ground of the dispute being barred by limitation.
2. The facts of the case are that the petitioner working on the post of Peon with respondent no.2 was terminated from service on 01.09.2018. Against the said order of termination, it appears that the petitioner straightaway preferred an appeal before the Chhattisgarh State Co-operative Tribunal under Section 77 A of the Act of 1960. The Tribunal seems to have held that the appeal directly to the Tribunal is not maintainable and disposed of

the matter directing the petitioner to raise a dispute under Section 55 (2) of the Act of 1960 before the competent authority. The petitioner thereafter raised a dispute before respondent no.2 on 05.02.2019 which vide impugned order Annexure P-1 dated 20.06.2019 has been rejected on the ground of limitation. The finding of the respondent no.4 is that the dispute ought to have been raised within a period of 30 days but it has been raised belated around 6 months without there being any application for condonation of delay nor was there any reason specified for not approaching the authority timely. It is this order which is under challenge in the present writ petition.

3. All said and done, what cannot be lost sight is the fact that the dispute raised by the petitioner was that of termination from service which in other word means, a capital punishment imposed by respondent no.2. The petitioner seems to have reached a wrong forum i.e. the State Co-operative Tribunal instead of raising a dispute under Section 55(2) of the Act of 1960 before the competent authority. Realizing the mistake committed by the petitioner, the Tribunal permitted the petitioner to approach the competent authority under section 55 (2) of the Act of 1960. The Tribunal once having raising the dispute, this Court is of the opinion that the authority should passed an order directing the petitioner for approaching the competent authority under Section 55 (2) of the Act of 1960 and the petitioner thereby raising the dispute, this Court is of the opinion that the authority should have taken a more pragmatic and liberal approach considering the fact that the order under challenge is that of termination from service.
4. The termination of service leads to the snatching of means for fulfilling the basic requirement of a person for survival and also for the dependents depending upon the employee. In case the dispute so raised by a person

is rejected only on the ground of limitation particularly when the period of limitation being not inordinately late, the same would amount to choking the petitioner from availing any other remedy available, to question the veracity of the order of termination. The authority concerned, considering the fact that the provisions of Section 55 (2) of the Act of 1960 and the act all being provisions which are intended to facilitate the workers raising a dispute against the order passed by the employer, should have taken a more liberal view by permitting the petitioner to move an application for condonation of delay and should also have invoking the provisions of Sec 14 of the Limitation Act whereby the petitioner having approached a wrong forum for challenging the termination order, should have condoned the delay and should have entertained and decided the case on its merits.

5. For all the aforesaid facts, this Court is of the opinion that the order passed by the Joint Registrar dated 20.06.2019 (Annexure P/1) in the case of the petitioner is too hyper-technical and bad in law and the same deserves to be and is accordingly set aside. The matter stands remitted back to the respondent no.2 to proceed and decide the case of the petitioner on its merit ignoring the aspect of limitation.
6. The writ petition accordingly stands allowed.

Sd/-
(P. Sam Koshy)
Judge