

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5364 of 2019**

Prakash Sharma S/o Shri Vishnu Prasad Sharma, Aged About 52 Years, Working As Field Assistant, Paddy Procurement Center, Dabrabhat, District Kabirdham, 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
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
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
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
5. The District Manager, Chhattisgarh State Cooperative Marketing Federation Limited, District Janjgir Champa Chhattisgarh
6. The Senior 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

---- Respondents

For Petitioners	:	Mr. V. R. Tiwari, Advocate
For State	:	Mr. Arvind Dubey, P.L.
For Respondents 2 to 6	:	Mr. Aayush Bhatia on behalf of Mr. S. C. Verma, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order On Board

23.07.2019

1. The challenge in the present writ petition is to the order Annexure P-1 dated 03.07.2019 whereby the petitioner's appeal against the order of recovery dated 17.02.2019 has been rejected on the ground of delay.
2. The case of the petitioner is that the petitioner is working as a Field Assistant under respondents 2 to 6. The petitioner for some alleged irregularities was inflicted with an order of recovery to the tune of Rs.5,65,952/- and also cost of 10,000 Ganny bags amounting to Rs. 1,60,000/-. The total amount ordered to be recovered thus was Rs.7,25,952/-. Against the said order of recovery the petitioner preferred an appeal before the respondent no.2 on 06.6.2019 but the Appellate Authority rejected the appeal vide impugned order Annexure P-1 dated 03.07.2019 leading to the filing of the present writ petition.
3. Contention of the counsel for th petitioner is that the petitioner is a low paid employee in the department and that he has been falsely implicated in the said case and the order of recovery has been wrongly assessed upon him. He submits that the petitioner

admittedly had preferred an appeal at a belated stage before the Appellate Authority but the delay was not inordinate which should not have been condoned by the Appellate Authority. According to the petitioner, since the Appellate Authority has rejected the appeal only on the ground of delay, it would render the petitioner remediless to challenge the order of recovery which is a huge amount for the petitioner. Further contention of the counsel for the petitioner is that since the respondent no.2 was the departmental appellate authority, he should have taken a more pragmatic view on the issue of delay and should have entertained the appeal and decided it on merits rather than rejecting it on the technicality of delay.

4. Counsel for the respondents, however, opposing the petition submits that since the period of limitation prescribed under the regulation itself is 30 days, the petitioner ought to have been preferred the appeal within 30 days and not filing it within 30 days would amount the appeal to have been filed belatedly and the order of the respondents rejecting the appeal on the ground of delay cannot be held to be bad in law. Thus, prayed for rejecting the writ petition.
5. Having heard the contentions put forth on either side and on perusal of the record, what is not in dispute is the status of the petitioner that of a Field Assistant which is a Class-III post. The category which the petitioner belongs to undoubtedly falls within a category of low paid employee under the respondents. The amount of Rs.7,25,952/- which has been ordered to be recovered from the petitioner is undoubtedly a huge amount so far as the petitioner is concerned.

Moreover, the delay in the filing of the appeal was only of a period of 2 ½ months, which cannot be said to be inordinate. If for any reason, the petitioner has not been able to file the appeal within the stipulated period, the authority concerned should have taken a liberal view and condoned the delay and should have decided the appeal on its merits instead of technicality.

6. Thus, the impugned order is too harsh a decision taken by the respondents and the same deserves to be and is accordingly set aside/quashed and the matter stands remitted back to the respondent no.2 for deciding the appeal of the petitioner on its merit ignoring the aspect of limitation or delay.
7. The writ petition accordingly stands allowed and disposed of.

Sd/-
P. Sam Koshy
Judge