

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 377 of 2019

(Arising out of order dated 22.02.2018 passed by the learned Single Judge in WPS No. 1651 of 2018)

- Omprakash Singhare S/o Shri B.L. Singhare Aged About 50 Years R/o Street No. 34, Block No. 9/e, Sector 7, Bhilai, District Durg, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Department Of Tribal Development, Mahanadi Bhawan Capital Complex, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Commissioner Scheduled Caste and Scheduled Tribes Development Department, Indrawati Bhawan, Capital Complex, Mantralaya Naya Raipur, District Raipur, Chhattisgarh.
3. Secretary Department of Sports and Youth Welfare, Raipur, District Raipur, Chhattisgarh.
4. Assistant Commissioner Tribal Welfare Development Department Durg, District Durg, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Tarun Dadsena, Advocate
For Respondents-State	:	Shri Gagan Tiwari, Deputy Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, Chief Justice

23.08.2019

1. Interference declined by the learned Single Judge with regard to the prayers to protect the salary which the Appellant was drawing on deputation, even after repatriation to the parent department is put to challenge in this appeal. The appeal is belated by 478 days, which is sought to be condoned by filing a petition as well.
2. Heard Shri Tarun Dansena, learned counsel for the Appellant as well as Shri Gagan Tiwari, the learned counsel representing the Respondents-State.

3. There is no dispute with regard to the facts and sequences. The Petitioner while working as 'Assistant Grade-III' was posted on deputation as 'District Sports Officer' under the 3rd Respondent for a period of two years as per the proceeding dated 19.11.2007. On completion of the period of deputation, he was repatriated to the parent department, who hence joined the post of Assistant Grade-III (from which post he was sent on deputation). But then, there was a small dip in the salary, when compared with the salary which he was receiving while on deputation. This, according to the Petitioner, was to be compensated and protected and hence he approached this Court by filing writ petition with the following prayers :

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ / commanding and directing the respondents No.1 & 2 to consider the case of the petitioner for posting him as Area Organizer.

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ / commanding and directing the respondent-authorities to pay the arrears of the pay scale which has been reduced without any rhyme or reason.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondent-authorities to consider and decide the representations of the petitioner which are pending for consideration since long time.

10.4 Any other relief as this Hon'ble Court may deems fit looking to the facts and circumstances of the case may also be awarded.”

4. The matter was considered by the learned Single Judge, who observed in paragraph 3 that the learned counsel for the Petitioner had fairly conceded that the Petitioner, in fact, was receiving the very same salary in the parent cadre, which he would otherwise received had he not been sent on deputation. Inspite of the query raised by the Court to

show any provision of law to sustain the relief sought for granting protection of the salary drawn during the period of deputation, even after repatriation on the parent department, no satisfactory explanation was forthcoming and no provision of law in this regard was cited before the learned Single Judge, as observed in paragraph 3 of the judgment. It was in the said circumstances, that interference was declined and the writ petition was dismissed.

5. Position remains the same today as well and the learned counsel has not referred any specific provision of law or precedent so as to sustain the relief sought for. That apart, the appeal is belated by 478 days and explanation offered to condone the delay in I.A. No. 1 of 2019 is “due to the lack of knowledge of limitation period” and the medical unfitness, particulars of which have not been given. Ignorance of law is no excuse. The version offered by the Petitioner in the I.A. is not liable to be treated as any 'explanation', much less any 'satisfactory explanation'. There is no merit as well.
6. In the said circumstances, the petition to condone the delay and the appeal stand dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge