

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 557 of 2019**

Sukhyyar Devdas S/o Manbodh Ram Aged About 60 Years Caste- Mahar,
R/o Bodrabandha, Police Station Rajim, Tahsil Chhura, District
Gariyaband, Chhattisgarh., District : Gariyabandh, Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Engineer-In-Chief Public Works Department, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Executive Engineer Public Works Department, Division Gariyaband, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
4. Sub-Divisional Officer Public Works Department, Division Gariyaband, Sub-Division Ranjim, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Appellant	: Shri Akhilesh Mishra, Advocate
For Respondent/State	: Shri Ghanshyam Patel, Government Advocate and Shri Amit Buxy, Panel Lawyer

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgement on Board****P. R. Ramachandra Menon, Chief Justice****29.11.2019**

1. The appeal is against the order dated 12.09.2014 passed by the learned Single Judge whereby interference was declined with regard to the correction of date of birth and the writ petition was dismissed.
2. Heard the learned counsel for both the parties.

3. The gist of the grievance projected herein is with regard to the alleged date of birth of the Appellant as claimed to be on 25.04.1961, which however, was stated as recorded in the service record as of the year 1956. By the fag end of the service, it was sought to be corrected, which was not acceded to and hence the writ petition with the following prayers :

“10.1 For the issuance of an appropriate writ, order or direction, especially a writ in the nature of certiorari for setting aside the selection and appointment of all selected training officers vide appointment order dated 10.01.2013(Annexure P-2) and appointment order dated 02.05.2013 (Annexure P-3) in various ITIs in the State of Chhattisgarh as per the advertisement dated 01.09.2010 being violative of procedural law and against the constitutional mandate, had been made fraudulently, after fabricating the record and not following the hundred point roster in Selection as per the advertisement and the candidature of the meritorious candidates had been ignored in highly improper and illegal manner.

10.2 Further issuance a writ in the nature of certiorari for quashing the order dated 14.11.2017(Annexure P-32) by which the respondent no. 4 granted the permission to the Department for completing the CTI/ATI course of 509 selected candidates/private respondents after a period of five years and subsequently order dated 24.05.2018 (Annexure P-33) by which the respondent department allow/let the private respondents to complete their CTI/ATI course by sending in Central Training Institutes out of State Chhattisgarh, after a period of five years, being violative of condition of the appointment letter.

10.3 Further issuance of an appropriate writ, order or direction for directing the respondents department not to confirm/regularize the selection of the selected candidates by completing their probation period as the selection is under the shadow of doubt and under investigation as per the order of Hon'ble Lok Aayukt Chhattisgarh.

10.4 Further issuance of an appropriate writ, order or direction, especially a writ in the nature of

mandamus for directing the respondent no. 1 to handover the investigation of the matter to other impartial Agency like Central Beuro of investigation instead of SIT formed by the department itself and not conducted the investigation in a fair and impartial manner and sitting tight over the matter for a long and reasonable time.

10.5 Further this Hon'ble Court may issue any other writ, order or direction as it may deem fit in the facts and circumstances of the present case.

10.6 The petitioners had produced the records which were available with them, however respondents may be directed to produce the entire record pertaining to the subject area of present case.

10.7 Any other relief which this Hon'ble Court deems fit may be awarded in favour of the petitioner.”

4. The matter was heard by the learned Single Judge elaborately and for the reasons stated therein, interference was declined as mentioned above.
5. Though the above verdict was passed way back on 12.04.2014, it was never sought to be challenged by the Appellant and he retired from the service on attaining the age of superannuation, based on the age reflected in the service record, on 30.06.2018. Even after the said retirement, the Appellant did not find it necessary to have it challenged for quite long. Now, as a matter of revelation, he has turned up and moved this Court by way of filing of the writ petition on 05.11.2019 (i.e. 5 ½ years after dismissal of the writ petition and even after 1½ years of his retirement on 30.06.2018) with an application to condone delay of 1833 days in filing the appeal.
6. Learned counsel for the Appellant submits that the Appellant had submitted a representation, which did not turn to be fruitful. The only explanation

given in para-4 of I.A. No.1 of 2019 to condone the inordinate delay is “his ignorance to the law”, which cannot be an excuse. Para-4 reads as follows :

4. That, petitioner was not much literate and was not much knowledge about of the appeal. Meanwhile due to the order of this Hon'ble Court the petitioner was retired much before the date of actual retirement. In this circumstance the petitioner had no alternative remedy apart from the file writ appeal for the kind perusal of this Hon'ble Court.”

7. After hearing, we are of the view that absolutely no explanation has been given; much less anything satisfactory to condone the delay of 1833 days in filing the appeal. The discretionary jurisdiction of this Court is never to extend relief to such a person who was taking rest on armchair, unmindful of his rights and liberties in this regard. We find support from the ruling rendered by the Hon'ble Supreme Court in the matter of **Rabindra Nath Bose and Others v. Union of India and Others** reported in **AIR 1970 SC 470**.
8. In the said circumstance, I.A. No.01 of 2019, application for condonation of delay is dismissed and the writ appeal also stands dismissed, as a natural consequence.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge