

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPS No. 3401 of 2020

R.L. Jaiswal, aged 65 years, S/o Late Banslal Jaiswal, (Retired as Lower Division Clerk, District Treasury, Raipur), R/o Satyam Vihar Colony, Raipura Road, District - Raipur Chhattisgarh.

---- **Petitioner**

Versus

1. State of Chhattisgarh Through Secretary, Department of Finance, Mantralaya, Mahanadi, Bhawan, Naya Raipur, District - Raipur, Chhattisgarh.
2. State of Madhya Pradesh Through Secretary, Department of Finance, Room No. C - 307, Block - 02, (Third Floor) Mantralaya, Vallabh Bhawan, Bhopal, District : Bhopal, Madhya Pradesh.
3. Director, (Treasury, Account and Pension), District – Raipur, Chhattisgarh.
4. Joint Director (Treasury, Account and Pension), District Raipur, Chhattisgarh.
5. District Treasury Officer, Raipur, District : Raipur, Chhattisgarh
6. Collector, Raipur, Chhattisgarh.

-----**Respondents**

For Appellant	: Shri Akash Kumar Kundu, Advocate.
For State	: Shri Chandresh Shrivastava, Dy. AG.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board

Per PR Ramachandra Menon, CJ
01.09.2020

1. The disciplinary action finalized against the petitioner about 2 ½ decades ago and the interference declined by the M. P. Administrative Tribunal, Jabalpur Bench, Jabalpur, (M.P) more than 2 decades ago, form the subject matter of challenge in the present writ petition filed virtually after 22 years.
2. Heard, Shri Akash Kumar Kundu, the learned counsel for the petitioner & Shri Chandresh Shrivastava, the learned Deputy Advocate General appearing on behalf of the State at length.
3. Shri Akash Kumar Kundu, the learned counsel for the petitioner submits that total injustice has been meted out to the petitioner with regard to the alleged misconduct on his part; who virtually has been made a scapegoat

for the wrong committed by his senior. The learned counsel also submits that the delay is due to the reasons pointed out in the writ petition in connection with the treatment for “hearing impairment” taken by the wife of the petitioner in the year 2009 and the “heart surgery” undergone by the petitioner in the year 2016.

4. The sequence of events reveals that the petitioner has joined the service in the post of “Lower Division Clerk”, in the office of District Treasury, Raipur, way back on 10.02.1975 and subsequently, was posted as Cashier in the Sub-Treasury, Bhatapara.
5. It is stated that in connection with the service, some serious misconduct was noted as committed by the petitioner, pursuant to which, charge-sheet was issued to him on 04.08.1980. Recovery of the amount involved was ordered on 21.03.1984 and thereafter based on the enquiry report submitted by the Disciplinary Officer on 21.01.1985, a show-cause notice in terms of Rule 15 of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 was issued to the petitioner on 08.03.1985. On completion of the proceedings as above, the penalty of stoppage of ten increments with cumulative effect, holding that in future, the petitioner shall not be entrusted with cash/treasury work and that petitioner will not be granted promotion for the next 15 years was imposed upon him, as per Annexure P/10 on 08.07.1985. Being aggrieved therewith, an appeal was preferred on 02.08.1985 which came to be dismissed by the Appellate Authority ie The Joint Director, Treasury & Account, Raipur, as per Annexure P/14 dated 20.05.1993. The petitioner preferred a Second Appeal before the Director, Treasury & Account, Bhopal, (MP), where also interference was declined and the Second Appeal came to be dismissed on 03.02.1994. This was sought to be challenged by moving the M.P.

Administrative Tribunal, Jabalpur Bench, Jabalpur, where also interference was declined. Dismissal of the Original Application vide order dated 01.08.1998, is now put to challenge before this Court.

6. Admittedly, the writ petition is belated by more than 22 years.
7. Coming to the reason assigned for the delay, in Ground B of the writ petition, it is to the following effect :-

“B. The petitioner being victim of the vicious corruption by his seniors and aggrieved by the impugned order dated 01.08.1998 of the MP State Administrative Tribunal did not have the capacity to appeal further being a lower division clerk. The petitioner's wife had to undergo medical treatment of her hearing impairment in the year 2009 and the petitioner underwent a Heart by pas surgery in the year 2016, all these circumstances led to the delay in filing this petition. The medical documents are herewith as Annexure P-16.”

8. As put-forth by the learned counsel for the petitioner, the reasons mentioned in the writ petition are that the writ petitioner was not having capacity to file further proceedings; that the petitioner was engaged in connection with the treatment for “hearing impairment” of his wife in the year 2009, and further that the petitioner had undergone “heart surgery” in the year 2016. The said reasons do not inspire any confidence and they do not deserve any consideration, in view of the fact that the order under challenge was passed by the Tribunal way back in the year '1998', whereas the treatment for “hearing impairment” of the wife of the petitioner was only after one decade ie in the year 2009, and the 'heart surgery' of the petitioner was still later, in 2016.
9. The learned counsel seeks to take a liberal view, placing reliance on the verdict passed by the Apex Court in the case of **S. P. Mishra vs Union of**

India reported in **(2007) 9 SCC 274** & **M. K. Nallakoya vs Tarsem Singh** reported in **(2008) 8 SCC 648**. The dictum therein is to the effect that insofar as the course of action is involving continuing wrong; the delay shall not be a bar in entertaining the matter by the Court. We are aware of the said rulings; but the present case is not a case of 'continuing wrong'. The action taken against the petitioner in respect of the 'misconduct' committed by him had come to finality decades ago.

10. The correctness of the order dated 08.07.1985 inflicting to the penalty as above, was put to challenge by filing an appeal, which came to be dismissed by the Appellate Authority vide order dated 20.05.1993. This came to be affirmed in Second Appeal as per Annexure P-15 dated 03.02.1994 by the Director, Treasury & Account, Bhopal, (MP). The Correctness of the proceedings subjected to scrutiny before the Tribunal, when interference was declined as per the impugned order passed on 01.08.1998. This being the position, the matter had attained finality more than two decades ago and the same cannot be re-agitated now by the petitioner under any circumstance, by filing this writ petition. We find support from the ruling rendered by the Apex court in case of **Rabindra Nath Bose & Ors vs Union of India & Ors** reported in **AIR 1970 SC 470** wherein it has been observed that the persons, who are taking rest on arm chair, unmindful of their rights and liberties, if any, are not entitled to get any protection at the hands of this Court. There is absolutely no merit in the writ petition to call for interference and it stands dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge