

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on:11.08.2021****Order delivered on:19.08.2021****Writ Petition (S) No.1084 of 2011**

Anup Kumar Mishra, aged about 52 years, S/o Late Shri Revati Raman Mishra, Officer Grade-I Surguja Kshetriya Gramin Bank Branch Manendragarh, Korea, R/o Brahma Path, Ambikapur, District Surguja (CG)

---Petitioner***Versus***

1. Chhattisgarh Rajya Gramin Bank Through its Chairman, 15, Recreation Road, Choubey Colony, Police Station-Amapara, Raipur, Civil & Revenue District-Raipur (CG)
2. General Manager, Surguja Kshetriya Gramin Bank, Head Office, First Floor, Vivek Complex, Sangam Gali, Ambikapur (CG)
3. Branch Manager, Chhattisgarh Rajya Gramin Bank, 1st Floor, Vivek Complex, Sangam Gali, Police Station – Ambikapur, Civil & Revenue District – Ambikapur (CG)

---Respondents

For Petitioner	: Mr.Manoj Paranjape, Advocate
For Respondents	: Mr.N.Naha Roy, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order**

1. This writ petition is directed against the order dated 27.12.2010 (Annexure P-1) passed by respondent No.2 by which the petitioner's appeal has been dismissed as barred by limitation.
2. Mr.Manoj Paranjape, learned counsel for the petitioner, would submit that the petitioner preferred an appeal against the order of disciplinary authority dated 3.7.2009 to the Board of Directors on 1.7.2010 with an application for condonation of delay in

preferring an appeal, but that has been dismissed on the ground that there is no provision for condonation of delay analogous to Section 5 of the Limitation Act, 1963 (hereinafter called as 'Act of 1963') in Surguja Khestriya Gramin Bank (Officers & Employees) Service Regulation, 2000 (hereinafter called as 'Regulations 2000'). He would further submit that the provisions contained in Section 29(2) of the Act of 1963 would apply and by that Section 5 of the Act of 1963 would be attracted and the Board of Directors was competent to condone the delay in filing an appeal. He would rely upon the judgment of the Supreme Court in the matter of Ganesan represented by its power agent G. Rukmani Ganesan v. Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Board and others¹.

3. On the other hand, Mr.N.Naha Roy, learned counsel for the respondents, would submit that the petitioner's appeal has rightly been dismissed by respondent No.2 as there is no provision in the Regulations 2000.
4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. Admittedly, the appeal preferred before the Board of

¹ (2019) 7 SCC 108

Directors under Regulation 47 of the Regulations 2000 has been dismissed by the Board of Directors finding no provision like Section 5 of the Act of 1963 for condonation of delay in filing an appeal before the appellate authority / Board of Directors under the Regulations 2000. Now in this writ petition, aid has been sought to be taken to Section 29(2) of the Act of 1963 relying upon the judgment of the Supreme Court in the matter of Ganesan (supra) to contend that Section 5 of the Act of 1963 would be applicable.

6. Section 29(2) of the Act of 1963 provides as under:-

"29. Savings.-

(1) xxx xxx xxx

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal, or application by any special or local law, the provisions contained in section 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

7. The question for consideration in this writ petition would be whether the Board of Directors while hearing an appeal under Regulation 47 of the Regulations 2000 was entitled to condone the delay in filing an appeal applying Section 5 of the Act of 1963 by virtue of

Section 29(2) of the Act and whether Section 29(2) of the Act of 1963 would be applicable in filing an appeal before the Board of Directors/Appellate Authority/Quasi-Judicial Authority constituted under the Regulations 2000.

8. In the matter of Ganesan (supra), the question as to whether Section 29(2) of the Act of 1963 can be pressed in service with regard to filing of suit, appeal or application before the statutory authorities and tribunals provided in special or local laws. Their Lordships of the Supreme Court were pleased to formulate the following questions for consideration in that regard in para-8 as under:-

"8.1.(1) Whether the Commissioner while hearing the appeal under Section 69 of Act, 1959, is a court?

8.2.(2) Whether applicability of Section 29(2) of Limitation Act is with regard to different limitation prescribed for any suit, appeal or application to be filed only in a court or Section 29(2) can be pressed in service with regard to filing of a suit, appeal or application before statutory authorities and tribunals provided in special or local laws?

8.3.(3) Whether the Commissioner while hearing the appeal under Section 69 of the 1959 Act is entitled to condone a delay in filing an appeal applying the provisions of Section 5 of the Limitation Act, 1963?

8.4.(4) xxx xxx xxx?"

9. Their Lordships after threadbare analysis, answered the above-stated questions in paras-59 and 60 as

under:-

"59. The ratio which can be culled from above noted judgments, especially judgment of three-Judge Benches, as noted above, is as follows:

59.1. The suits, appeals and applications referred to in the Limitation Act, 1963 are suits, appeals and applications which are to be filed in a court.

59.2. The suits, appeals and applications referred to in the Limitation Act are not the suits, appeals and applications which are to be filed before a statutory authority like Commissioner under the 1959 Act.

59.3. Operation of Section 29(2) of the Limitation Act is confined to the suits, appeals and applications referred to in a special or local law to be filed in court and not before statutory authorities like Commissioner under the 1959 Act.

59.4. However, special or local law vide statutory scheme can make applicable any provision of the Limitation Act or exclude applicability of any provision of Limitation Act which can be decided only after looking into the scheme of particular, special or local law.

60. We, thus, answer question Nos.2 and 3 in the following manner:

60.1. The applicability of Section 29(2) of the Limitation Act is with regard to different limitations prescribed for any suit, appeal or application when to be filed in a court.

60.2. Section 29(2) cannot be pressed in service with regard to filing of suits, appeals and applications before the statutory authorities and tribunals provided in a special or local law. The Commissioner while hearing of the appeal under Section 69 of the 1959 Act is not entitled to condone the delay in filing appeal, since, provision of Section 5 shall not be attracted by strength of Section 29(2) of the Act."

10. Their Lordships of the Supreme Court in Ganesan

(supra) have categorically held that suits, appeals and applications referred to in Section 29(2) of the Act of 1963 are suits, appeals and applications which are filed in a court and Section 29(2) of the Act of 1963 cannot be pressed in service with regard to filing of suits, appeals and applications before the statutory authorities and tribunals provided in the special or local law and as such, the petitioner is not entitled for benefit of the provisions contained in Section 29(2) of the Act of 1963 in an appeal preferred before the Board of Directors, who is a quasi-judicial authority constituted under Regulation 47 of the Regulations 2000 and the Board of Directors while hearing an appeal against the order of the disciplinary authority remains a quasi-judicial authority cannot by any stretch of imagination be called as court for the purpose of Section 29(2) of the Act of 1963, therefore, Section 5 of the Act of 1963 would not be applicable before the appellate authority (Board of Directors) to entertain the application for condonation of delay in preferring appeal by virtue of Section 29(2) of the Act of 1963.

11. It is well settled law that special or local law can very well provide the applicability of any provision of the Limitation Act or exclude applicability of any provision of the Limitation Act. The provisions of the

Limitation Act including Section 5 can be applied in deciding an appeal by statutory authority which is not a court by the statutory scheme of special or local law. [see Para-61 of Ganesan (supra)].

12. Regulation 47 provides right to appeal, Regulation 48 provides for appellate authorities and Regulation 49 provides for requirement of an appeal which states as under:-

"Regulation 47. Right to appeal:

(i) An officer or employee shall have right of appeal against any order passed under these Regulations which injuriously affects his interest.

(ii) The appeal shall be preferred to the Appellate Authority mentioned in Regulations 48 within 45 days of the date of receipt of the order appealed against. The Appellate Authority shall consider the appeal and pass suitable order preferably within a period of 6 months.

Regulation 48. Appellate authorities:

An appeal shall lie;

(i) to the Board where the Chairman or Committee of Directors is the Competent Authority.

(ii) to the Chairman where any other officer is the Competent Authority.

Regulation 49. Requirement of an appeal:

Every appeal shall comply with the following requirements:

(a) it shall be in writing and couched in polite and respectful language and shall be free from unnecessary padding or superfluous verbiage.

(b) it shall contain all material statements

and arguments relief on and shall be complete in itself.

(c) it shall specify the relief desired.

(d) it shall not be addressed to directors personally."

13. A careful perusal of the above-stated provisions would show that Regulation Making Authority never contemplated applicability of Section 5 of the Limitation Act, 1963 for condoning the delay in filing an appeal. As such, the provision contained in Section 5 of the Act of 1963 would be inapplicable to an appeal preferred under Regulation 48 of the Regulations 2000.
14. Consequently, the appellate authority / Board of Directors is justified in dismissing the appeal as barred by limitation holding that there is no provision for condonation of delay in filing an appeal, as such, I do not find any merit in this writ petition. However, this will not bar the petitioner to avail other remedies available under the law.
15. Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-