

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 965 of 2012**

Ramlal Lahare S/o Rathuram Lahare, Aged about 49 years, R/o Village Loharsingh, Tahsil and Thana Pussore, Distt. Raigarh, Chhattisgarh.

---Petitioner

Versus

- 1.State of Chhattisgarh, through Secretary, Home Department, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
- 2.The Joint Director, Accounts, Treasury and Pension, Bilaspur, Chhattisgarh.
- 3.Superintendent of Police, Beejapur, Distt. Beejapur, Chhattisgarh.
- 4.The Accountant General Chhattisgarh, Pendari Pagariya Complex, Raipur, Chhattisgarh.
- 5.Director General of Police, Police Head Quarter, Raipur, Chhattisgarh.
- 6.Inspector General of Police, Bastar Range, Lalbag, Jagdalpur, Chhattisgarh.

---Respondents

For Petitioner :- Mr. R.K. Pali, Advocate

For State :- Mr. Sunil Otvani, Addl. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/09/2021

- 1.Petitioner herein was inflicted with punishment of dismissal from service by order dated 20/11/2008

(Annexure P/1) passed by the Disciplinary Authority against which he did not prefer an appeal before the competent Appellate Authority rather he preferred an appeal before the Scheduled Tribe Commission which was forwarded by the said Commission to the Appellate Authority on 27/04/2012 and the Appellate Authority by order dated 10/05/2012 (Annexure P/14) dismissed the appeal and confirmed the order of dismissal on the ground of limitation.

2.Mr. R.K. Pali, learned counsel for the petitioner, would submit that petitioner preferred the appeal before the Scheduled Tribe Commission right in time which was forwarded by the said Commission to the Appellate Authority and if the appeal was barred by limitation when it was received by the Appellate Authority, he could have given some time to the petitioner to file application for condonation of delay which has not been given and his appeal has been dismissed as being barred by limitation, which is unsustainable and bad in law.

3.Mr. Sunil Otwani, learned State counsel, would support the impugned order.

4.I have heard learned counsel for the parties, considered their rival submissions made herein-

above and went through the records with utmost circumspection.

5. True it is that petitioner did not prefer the appeal right in time before the competent Appellate Authority, but he did prefer the appeal before the Scheduled Tribe Commission right in time, and when it was forwarded by the Scheduled Tribe Commission to the competent Appellate Authority, the appeal has become time barred. In that event, the Appellate Authority could have given an opportunity to the petitioner to file suitable application for condonation of delay, but that opportunity was not given and petitioner's appeal has been straightway dismissed as barred by limitation without giving any opportunity to him to file application for condonation of delay. Accordingly, the impugned order dated 10/05/2012 (Annexure P/14) is hereby set aside and matter is remitted to the Appellate Authority to consider and decide petitioner's appeal on merits within three months from the date of receipt of a copy of this order by passing a reasoned and speaking order subject to filing of application for condonation of delay by the petitioner within three weeks from today. The Appellate Authority would keep in mind that the petitioner erroneously preferred the appeal before the Scheduled Tribe Commission and he would also

consider that the application is fit for Section 14 of the Limitation Act, 1963. In that view of the matter, mercy petition dated 25/03/2013 (Annexure P/15) filed by the petitioner is hereby quashed.

6. Accordingly, the writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

Harneet