

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 8008 OF 2019

Shri Chandrakant s/o Bapuji Kirmire,
Age 54 years,
Occupation – EX.G.D.S.B.P.M.
Awalgaon, B.O. (Bramhapuri S.O.),
District Chandrapur – 441206.

.... **PETITIONER**

VERSUS

- 1) The Union of India,
through the Secretary, Ministry
of Communication, Department of
Post, Dak Bhawan, New Delhi-110 001.
- 2) The Chief Post Master General,
Maharashtra Circle, Mumbai – 400 001.
- 3) The Post Master General,
Nagpur Region, Nagpur – 440 010.
- 4) The Sr. Superintendent of Post Offices,
Chanda Division, Chandrapur – 442 401.
- 5) The Sub-Divisional Inspector of Post
Offices, East Sub-Division, Bramhapuri,
District Chandrapur.

.... **RESPONDENTS**

Mr. D.B. Walthare, Counsel for the petitioner,
Mr. N. Deshpande, DSGI for respondents 1 to 5.

CORAM : ROHIT B. DEO & Y.G. KHOBRAGADE, JJ.
DATED : 22nd FEBRUARY, 2023

ORAL JUDGMENT : (PER : R.B. DEO, J.)

Heard. **Rule.** Rule made returnable forthwith with consent of the parties.

2. The challenge is to the order dated 14-9-2016 whereby the learned Central Administrative Tribunal (CAT) was pleased to dismiss the application preferred by the petitioner-employee seeking condonation of delay in approaching the CAT.

3. Few facts may be noted.

(i) The petitioner was proceeded departmentally on the allegation of temporary misappropriation of Rs.4,167/- (Rupees Four Thousand One Hundred Sixty Seven only), and dismissed from service vide order dated 31-5-2007.

(ii) The appeal preferred by the petitioner was dismissed on 21-5-2008 and the revision petition was dismissed on 31-8-2009. The petitioner preferred review petition before the Hon'ble The President on 02-9-2013 which is not decided.

(iii) The petitioner approached the learned CAT seeking condonation of delay of two years, six months and twelve days in preferring the Original Application.

4. While we note that the petitioner did not approach the Hon'ble The President of India expeditiously, the learned CAT has assumed that the delay is of more than seven years. The learned CAT has arrived at the said conclusion assuming that the limitation shall start from 31-8-2009 which is the date of dismissal of the revision.

5. While from a purely legalistic perspective it is true that the petitioner did approach the Hon'ble The President belatedly in 2013, however, the petition could not have been called upon to explain the delay from 2009 till 2013 since after having preferred the review before the Hon'ble The President, the petitioner cannot be faulted for labouring under the impression that the review shall be decided, either way.

6. Considering that the issue is of the employment of the petitioner, and that the petitioner was availing a remedy, albeit there was delay between the dismissal of the revision and approaching the Hon'ble The President of India, we are satisfied that sufficient cause is made out for condonation of delay.

7. We quash and set aside the order impugned and request the learned CAT to decide the Original Application 2242/2016 on its own

merit, as expeditiously as possible.

8. The petition is disposed of in the afore-stated terms.

(Y.G. Khobragade, J.)

(Rohit B. Deo, J.)

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