



2025:CGHC:18864-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4277 of 2020

1 - Arjun Singh Thakur (Dead) Through LRs., As Per Court Order Dt. 02-01-2023.

1.1 - (A) Anu Thakur Wd/o Late Shri Arjun Thakur, Aged About 37 Years R/o Quarter No. 23/b, P.P. Colony, Charauda, Bhilai, Police Station Bhilai-3, District Durg Chhattisgarh

1.2 - (B) Ayushi Thakur D/o Late Shri Arjun Singh Thakur, Aged About 16 Years Minor And Hence Are Being Represented By Their Legal Guardian Mother Anu Thakur, R/o Quarter No. 23/b, P.P. Colony, Charauda, Bhilai, Police Station Bhilai-3, District Durg Chhattisgarh

1.3 - (C) Prashant Kumar Thakur, S/o Late Shri Arjun Singh Thakur, Aged About 15 Years Minor And Hence Are Being Represented By Their Legal Guardian Mother Anu Thakur, R/o Quarter No. 23/b, P.P. Colony, Charauda, Bhilai, Police Station Bhilai-3, District Durg Chhattisgarh

... Petitioner(s)

versus

1 - South East Central Railway Through , General Manager, Bilaspur, Chhattisgarh

2 - Chief Mechanical Engineer South East Central Railway, Bilaspur. Chhattisgarh

3 - Chief Personal Officer (Cpo) Bilaspur Division, South East Central Railway, Bilaspur (Chhattisgarh)

4 - Senior Divisional Mechanical Engineer South East Central Railway,
Raipur.Chhattisgarh

5 - Senior Divisional Mechanical Engineer South East Central Railway, P.P. Yard,
Bhilai, Durg, Chhattisgarh

6 - Dy. Divisional Mechanical Engineer South East Central Railway, P.P. Yard, Bhilai,
Durg, Chhattisgarh.

7 - Additional Divisional Railway Manager South East Central Railway, Raipur,
Chhattisgarh

... Respondent(s)

For Petitioner(s)	: Shri Arvind Shrivastava, Advocate
For Respondent / Union of India	: Shri Ramakant Mishra, Dy. Solicitor General

DB : Hon'ble Smt. Justice Rajani Dubey
Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

Per Sachin Singh Rajput, J.

25/04/2025

Present writ petition has been filed by the petitioners aggrieved by order dated 17/09/2019 passed by the Central Administrative Tribunal, Jabalpur, Bench Circuit sitting, Bilaspur (CG) in original application No.203/00642/2019 by which the application under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed.

2. This writ petition was filed by the petitioner-Arjun Singh Thakur, however, during the pendency of this petition, he passed away and his legal representatives were brought on record.

3. Facts of the case in brief is that the petitioner was initially appointed as Technician Grade-3 vide order dated 01/05/1997 (Annexure P/6). After completing the training successfully, the petitioner was absorbed / appointed as

Technical Grade-3 vide order dated 03/07/2000 (Annexure P/7). The petitioner without proper intimation / permission remained absent from services for the period from 02/07/2000 to 05/03/2001. A departmental enquiry was conducted against him and vide order dated 01/07/2002 (Annexure P/8), he was reverted to the post of Khalasi for 3 years. After completion of the said period, the petitioner again promoted to the post of Technical Grade-3. The petitioner without proper intimation/permission, remained absent from services for a period from 08/09/2000 to 12/11/2009. Departmental enquiry was conducted against the petitioner for this misconduct vide order dated 29/06/2010/28/07/2010 (Annexure P/9) and he was again reverted to the post of Khalasi for 3 years. The petitioner again remained absent from services for a period from 23/08/2010 till issuance of letter dated 10/23 March, 2011. Then a departmental enquiry was conducted against the petitioner for this misconduct and vide order dated 10/23.03.2011 (Annexure P/10), he was removed from services. The petitioner preferred a mercy appeal dated 15/11/2011 and considering the same vide order dated 23/05/2012/04/06/2012 (Annexure P/11), the order (Annexure P/6) was modified and the petitioner was again kept on the post of khalasi and he joined from 06/06/2012. Thereafter, the petitioner preferred revision/appeal dated 16/02/2017 (Annexure P/12) to which reply dated 16/10/2017 (Annexure P/2) was given by Deputy Chief Personal Officer (HQ) for Chief Personal Officer. In this reply it was mentioned that the revisional authority i.e. CME / SECR has passed the order that "Since the appeal has been put up after 4 years 8 months without any reasons for delay so his appeal cannot be considered." The petitioner submitted a representation dated 11/01/2018 (Annexure P/3). Thereafter, to know the status of his representation, an application dated 24/03/2018 under Right to Information Act (Annexure P/13) was submitted by the petitioner to which he received reply dated 18/04/2018 (Annexure P/14). Against which reply dated 18/04/2018 (Annexure P/15), the petitioner preferred an appeal dated 01/05/2018 (Annexure P/15) which was replied vide letter dated 28/05/2018 (Annexure P/16). Then the petitioner filed a writ petition before this Court and the same was withdrawn with liberty to approach the appropriate Tribunal for redressal of his grievance. This Court was pleased to grant the above liberty vide order

dated 24/01/2019. Thereafter, the petitioner preferred an application before CAT. The CAT rejected the said application vide order dated 17/09/2019.

4. Learned counsel for the petitioner submits that prayer in the original application was to the effect that the respondents may be directed to decide the representation of the petitioner dated 11/01/2018, however, the learned CAT has held that order dated 16/02/2017 is in accordance with law whereas the same order was not under challenge. Therefore, learned CAT has committed an error of law and fact in dismissing the original application of the petitioner. Therefore, this writ petition may be allowed and the impugned order may be set aside and the relief as claimed for deciding the representation dated 11/01/2018 may be granted.

5. Per contra, learned counsel for the respondents submits that the departmental enquiry was initiated against the petitioner pursuant to which he was removed from service. Thereafter, taking a lineant view, his order of removal was modified and he was reverted to the post of Khalasi. The original petitioner preferred statutory appeal which was dismissed vide order dated 16/10/2017 holding that it is filed after 4 years and 8 months without any reason for delay. Thereafter, fresh representation was made by the petitioner on 11/01/2018 for setting aside order of rejection which has already been turned down in the earlier statutory appeal filed by the original petitioner.

6. Heard learned counsel for the parties and perused the records.

7. On perusal of records, it appears that an enquiry was conducted against the petitioner for his unauthorized absence and vide order dated 10/23.03.2011 (Annexure P/10), the petitioner was removed from service with immediate effect without any further (post removal) benefits i.e. without compassionate allowance. It appears that the petitioner filed an appeal against order of removal and the punishment imposed was modified and the petitioner was reverted to the post of Khalasi Helper (initial stage of pay i.e. 5200/-GP1800/-) from present designation for a period of 07 (seven) years with (CE) cumulative effect vide order dated 23.05.2012 / 04/06/2012 (Annexure P/11). Records also

indicates that a representation/appeal was presented by the petitioner on 16/02/2017 against order dated 23/0512/04/06/12 (Annexure P/12). Thereafter, the revision petition was dismissed by the respondents vide its order dated 16/10/2017 (Annexure P/2) observing that the appeal has been put up after 4 years and 8 months without any reasons for delay. Therefore, it cannot be considered. It appears that the petitioner again made representation dated 11/01/2018 referring to order dated 23-05-12/04-06-12 and 16/10/2017 (Annexure P/2) to the Chief Mechanical Engineer, South Eastern Central Railway, Bilaspur (Head Office) and prayed that reversion of the petitioner on the post of Khalasi is bad in law which according to learned counsel for the petitioner has not been decided leading to filing of original application. The punishment of removal from service was modified by the respondents to “reversion” to the post of Khalasi Helper which was challenged by the petitioner after a lapse of 4 years 8 months and the same was rejected by the respondents vide order dated 16/10/2017. Instead of challenging the same, the petitioner again made representation, which in the opinion of this Court is fruitless exercise as the decision on his earlier appeal had already taken place. Though in the original application, the petitioner has prayed that his representation may be decided but learned CAT has found that initial appeal against reversion of the petitioner was filed after 4 years 8 months and on that count order dated 16/10/2017 (Annexure P/2) was passed which does not require any interference.

8. The petitioner has already availed the remedy of filing appeal and in the opinion of this Court, he cannot be permitted to file representation again and again for the same relief. Therefore, we do not find any good ground to interfere in the order passed in original application. The petition is accordingly dismissed.

Sd/-

(Rajani Dubey)
JUDGE

Sd/-

(Sachin Singh Rajput)
JUDGE

Deepti

DEEPTI HARIKUMAR	Digitally signed by DEEPTI HARIKUMAR Date: 2025.04.30 13:50:34 +0530
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