

(2021) 08 CHH CK 0081
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 6682 Of 2011

Devendar Nath Rai

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 25-08-2021

Acts Referred:

Central Industrial Security Force Rules, 2001 — Rule 54

Citation : (2021) 08 CHH CK 0081

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Amrito Das, K. Rohan, R.K. Gupta

Final Decision : Allowed

Judgement

1. This writ petition is directed against the order 28/06/2011 (Annexure P/3) by which the Revisional Authority has dismissed the revision preferred by the petitioner under Rule 54 of the Central Industrial Security Force Rules, 2001 (hereinafter, 'the Rules of 2001') as barred by limitation affirming the order dated 17/03/2007 (Annexure P/2) passed by the Appellate Authority affirming the order dated 10/10/2006 (Annexure P/1) by which the Disciplinary Authority has terminated petitioner from service.
2. Mr. Amrito Das, learned counsel for the petitioner, would submit that learned Revisional Authority has committed grave legal error in dismissing the revision preferred by petitioner under Rule 54 of the Rules of 2001 as barred by limitation ignoring the fact that though the Appellate Authority has affirmed the order of the Disciplinary Authority but thereafter, petitioner was awaiting the outcome of the criminal case which was registered against him in which he was acquitted by the jurisdictional Criminal Court on 22/12/2010 and immediately thereafter, he preferred the revision on 31/01/2011,

as such, the delay caused in filing of revision was not deliberate and intentional and therefore, it ought to have been condoned by the Revisional

Authority and the revision ought to have been decided on merits.

3. Mr. R.K. Gupta, learned counsel for the respondents, would submit that the subsequent acquittal of the petitioner will not be the ground for

condoning the delay in filing the revision under Rule 54 of the Rules of 2001.

4. I have heard learned counsel for the parties, considered their rival submissions and perused the records.

5. The Appellate Authority, vide order dated 17/03/2007 (Annexure P/2), affirmed the order dated 10/10/2006 passed by the Disciplinary Authority

against which petitioner preferred a revision on 31/01/2011 which has been dismissed by the Revisional Authority by order dated 28/06/2011

(Annexure P/3) as barred by limitation holding that the period prescribed under Rule 54 of the Rules of 2001 for filing a revision is six months whereas

petitioner preferred the revision after three years and eight months, as such, it has become barred by limitation and no cogent reason has been given

by the petitioner herein for condoning the delay in filing the revision.

6. It is correct to say that the Appellate Authority dismissed the appeal of the petitioner by order dated 17/03/2007 (Annexure P/2) affirming the order

dated 10/10/2006 (Annexure P/1) passed by the Disciplinary Authority and the revision against the order of the Appellate Authority ought to have

been preferred by the petitioner within six months from the date of passing of the order of Appellate Authority as prescribed under Rule 54 of the

Rules of 2001 whereas petitioner preferred the revision on 31/01/2011, but it appears from the record that petitioner was awaiting the outcome of a

criminal case pending against him wherein he was acquitted vide order dated 22/12/2010 by the jurisdictional Criminal Court and thereafter, he

preferred the revision on 31/01/2011.

7. Petitioner was terminated from service by the order dated 10/10/2006 (Annexure P/1) passed by the Disciplinary Authority against which the

appeal preferred by the petitioner was also dismissed by order dated 17/03/2007 (Annexure P/2) passed by the Appellate Authority and thereafter

petitioner, in order to prefer a revision under Rule 54 of the Rules of 2001, decided to await the decision of the Criminal Court and once the Criminal

Court rendered its decision on 22/12/2010 and acquitted the petitioner, he

preferred the revision under Rule 54 of the Rules of 2001 on 31/01/2011

within the shortest possible time. If the petitioner, being the dismissed employee, has decided to file revision after the outcome of the Criminal Court in

which eventually he was acquitted also, it can be considered as sufficient cause for delay in filing the revision as he rightly considered that his acquittal

(if any) in the criminal case may furnish a ground for setting aside the order of the Appellate Authority affirming the order of the Disciplinary

Authority. As such, considering the fact that petitioner is a dismissed employee and his appeal has also been dismissed by the Appellate Authority and

he preferred the revision with a delay on account of awaiting the outcome of the Criminal Case pending against him, it is held that petitioner has

shown sufficient cause for condoning the delay in filing the revision under Rule 54 of the Rules of 2001 and the Revisional Authority has erred in not

considering the aforesaid fact and straightway dismissing petitioner's revision as barred by limitation holding that no cogent reason has been assigned

by the petitioner herein for condoning the delay in preferring the revision. The Revisional Authority ought to have considered the reason assigned by

the petitioner as sufficient cause for condoning the delay in filing the revision.

8. It would be appropriate to mention here that this Court would ordinarily have remitted the matter to the Revisional Authority for considering afresh

as to whether sufficient case has been made out for condonation of delay in filing the Revision, but considering the fact that Disciplinary Authority has

terminated petitioner's service on 10/10/2006 and more than 15 years have lapsed, it would be inexpedient to remit the matter on the question of

condonation of delay. Accordingly, the impugned order dated 28/06/2011 (Annexure P/3) passed by the Revisional Authority is hereby set aside and

delay in filing the revision is condoned. Matter is remitted to the Revisional Authority to consider the revision preferred by the petitioner on merits after

hearing the parties within three months from the date of receipt of a copy of this order by passing a reasoned and speaking order.

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