

(2021) 09 CHH CK 0065
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 2544 Of 2013

Lalit Kumar Baghmare

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 14-09-2021

Acts Referred:

Central Industrial Security Force Rules, 2001 — Rule 54

Citation : (2021) 09 CHH CK 0065

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. The petitioner was imposed with major punishment of reduction of pay scale by one stage for one year with further punishment that the petitioner will not earn increment during the period of reduction and the same will have the effect of postponing his future increments by the disciplinary authority against which he preferred an appeal which was withdrawn and thereafter, he filed appeal again on 1-8-2009 which has been dismissed as time barred on 30-9-2009 against which he preferred a revision on 11-4-2012 which has also been dismissed on 27-6-2012 holding that the revision ought to have been preferred under Section 54 of the Central Industrial Security Force Rules, 2001 within six months from the date of communication of the order passed in appeal. The appeal was dismissed on 30-9-2009, whereas the revision was preferred on 11-4-2012 which has been dismissed by the impugned order.

2. Mr. Rishi Rahul Soni, learned counsel appearing for the petitioner, would submit that sufficient cause has been shown for delay in filing the revision and therefore the revision ought to have been allowed.

3. Mr. Rajkumar Gupta, learned counsel appearing for the respondents, would oppose the writ petition and support the impugned orders.

4. I have heard learned counsel for the parties and considered their submissions

and also went through the record with utmost circumspection.

5. The revisional Court by its impugned order dated 27-6-2012 has discussed the entire arguments on merits and held that the revision could have been preferred within six months, whereas the same has been preferred after lapse of more than 2½ years and finding no reason for justifying the delay of 2½ years, the revision has been dismissed as time barred.

6. A bare perusal of the impugned revisional order would show that the revisional authority has got himself impressed and swayed away with the fact that delay of 2½ years has been occurred and it has not been explained properly and has not considered the sufficiency of cause for not filing the revision within the period of limitation. The revisional authority did not care to mention on what date the petitioner received the appellate order dated 30-9-2009 and the revision was preferred on 11-4-2012. Sufficiency of cause cannot be judged on the ground of extent of delay in preferring revision. Merely because the delay is of 2½ years, it cannot be presumed that there is no sufficient cause for condoning the delay and the revision necessarily has to be dismissed on account of 2½ years in filing the same. This approach on the part of the revisional authority has caused serious injustice to the petitioner by dismissing his revision petition.

7. Considering the facts and circumstances of the case and the cause shown by the petitioner who has suffered major punishment and he is a person holding the post of Constable in the Central Industrial Security Force, I consider that the cause shown for delay in filing the revision was sufficient, as the delay was unintentional and bona fide and it was not deliberate (see *N. Balakrishnan v. M. Krishnamurthy* (1998) 7 SCC 123). Accordingly, the impugned order dated 27-6-2012 dismissing the revision as time barred, is hereby set aside.

8. The petitioner's appeal has also been dismissed by the appellate authority by order dated 30-9-2009 as barred by 45 days. It is pertinent to note that the order of punishment was passed on 15-5-2009 and appeal has been preferred on 15-6-2009 within time, but the same has been withdrawn on 20-6-2009 and submitted application dated 20-6-2009 and thereafter, he again preferred appeal on 1-8-2009 which has been dismissed on 30-9-2009 as time barred. Since the appeal preferred right in time was withdrawn bona fide and thereafter, again, appeal was filed on 1-8-2009, therefore, delay has been caused, as such, the delay in filing appeal was also bona fide and sufficient cause has been shown. Accordingly, the appellate order dated 30-9-2009 dismissed the appeal as time barred, is also set aside. The matter is remitted to the appellate authority to consider the appeal of the petitioner on merits and pass order afresh in accordance with law within two months from the date of receipt of a copy of this order.

9. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).