

(2023) 09 CHH CK 0020
In the Chhattisgarh High Court
Case No : Writ Appeal No. 367 Of 2023

Pramod Verma

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 13-09-2023

Acts Referred:

C.G. Cooperative Societies Act, 1960 — Section 55(2), 65(3)
Limitation Act, 1963 — Section 5

Citation : (2023) 09 CHH CK 0020

Hon'ble Judges : Ramesh Sinha, CJ; N. K. Chandravanshi , J

Bench : Division Bench

Advocate : Sourabh Sahu, H.S. Ahluwalia, Prafull N. Bharat, Jitendra Shrivastava

Final Decision : Dismissed

Judgement

1. Heard Mr. Sourabh Sahu, learned counsel for the appellant. Also heard Mr. H.S. Ahluwalia, learned Deputy Advocate General, appearing for respondents No. 1 & 2/State and Mr. Prafull N. Bharat, learned Senior Advocate, assisted by Mr. Jitendra Shrivastava, learned counsel, appearing for respondents No. 3 & 4.

2. The present intra Court appeal has been filed by the appellant/petitioner against the order dated 13.04.2023 passed by the learned Single Judge in WPS No. 1773 of 2020 (Pramod Verma Vs. State of Chhattisgarh & Others), whereby the learned Single Judge has dismissed the writ petition filed by the appellant/petitioner.

3. The brief facts of the case are that :-

(i) The appellant/petitioner was appointed on the post of Peon at the District Cooperative Central Bank Limited, Bilaspur on 30.05.2015 in pursuance to advertisement dated 15.02.2014 issued by the respondent No. 3 on probation for a period of 2 years and in pursuant to the appointment order the appellant/petitioner joined the service on 18.06.2014.

(ii) The appellant/petitioner submits that upon receiving certain complaints regarding some irregularities in the advertisement process, a show-cause notice was issued to the appellant/petitioner on 09.08.2017 for terminating the services of the appellant/petitioner. After receiving the notice, the appellant/petitioner replied to the said notice on 07.09.2017. After satisfying with the reply of the appellant/petitioner, the respondents passed the order on 08.03.2018 of completion of the probation period of the appellant/petitioner and directed for regular appointment of the appellant/petitioner with effect from 11.09.2016. Thereafter, again on 02.08.2018, another show-cause notice was issued to the appellant/petitioner with respect of similar irregularities and after receiving the notice, the appellant/petitioner again submitted his reply. However, this time the respondents after receiving the reply, conducted an enquiry and thereafter, on the basis of the enquiry report vide order dated 01.09.2018 terminated the services of the appellant/petitioner.

(iii) The appellant/petitioner filed revision before the C.G. Cooperative Tribunal against the order dated 01.09.2018. The learned Tribunal vide order dated 26.11.2018 dismissed the revision preferred by the appellant/petitioner and granted liberty to raise dispute according to Section 55(2) of the C.G. Cooperative Societies Act, 1960 (for short, 'Act of 1960').

(iv) The appellant/petitioner obtained certified copy of the order passed by learned Tribunal on 30.11.2018 and thereafter, raised dispute under Section 55(2) of the Act of 1960 on 15.01.2019 before the Joint Registrar, Cooperative Societies, Raipur along with an application under Section 5 of the Limitation Act as there was delay of 15 days in raising the dispute before the Joint Registrar, Cooperative Societies.

(v) The Joint Registrar, Cooperative Societies, Raipur vide order dated 26.04.2019 held that on 01.09.2018, the petitioner was removed from services and thereafter, he directly approached the Chhattisgarh State Cooperative Tribunal, Bilaspur by filing revision petition. Learned Tribunal vide order dated 26.11.2018 dismissed the revision, however, liberty was granted to the petitioner to raise dispute before the Competent Court. Certified copy of order was obtained from the learned Tribunal on 30.11.2018 and thereafter, the dispute was raised on 15.01.2019 whereas, limitation provided under proviso to Section 55(2) of the Act, 1960 is 30 days from the date of order. It is also provided that the period requisite in obtaining certified copy shall be excluded. The Joint Registrar vide order dated 26.04.2019 rejected the application for condonation of delay and consequently, the dispute raised by the appellant was also dismissed.

(vi) The appellant preferred appeal before the Chhattisgarh State Cooperative Tribunal against the order dated 26.04.2019 and the learned Tribunal relying upon the judgment passed by the Hon'ble Supreme Court in the matter of Noharlal Verma Vs. District Cooperative Central Bank Limited, Jagdalpur, reported in (2008) 14 SCC 445 held that according to Section 55(2) of the Act, 1960 an application can be filed within 30 days from the date of such order and

authority has no jurisdiction to entertain such suit, appeal or application to decide it on merits, after expiry of 30 days as provided under Section 55(2) of the Act, 1960. Consequently, learned Tribunal dismissed the appeal preferred by the appellant vide order dated 20.02.2020.

(vii) The said order dated 20.02.2020 passed by the learned Tribunal was challenged by the appellant before the learned Single Judge, which was dismissed by the learned Single Judge vide impugned order dated 13.04.2023. Against the order dated 13.04.2023 passed by the learned Single Judge, a review petition was also filed by the appellant, which was dismissed as withdrawn with liberty to avail remedy available under the law. Hence, this appeal.

4. Learned counsel for the appellant/petitioner submits that the order passed by the learned Single Judge is contrary to the law applicable to the facts and circumstances of the case. The judgment of Noharlal Verma (supra) has been overruled by the Hon'ble Apex Court in the matter of Syed Zalil Akhtar Vs. Zila Sahkari Krishi Avam Gramin Vikas Bank Mydt., reported in (2016) 12 SCC 365 was not brought to knowledge of the learned Single Judge. Learned counsel for the appellant would submit that the principle of natural justice has not been followed while passing the order of removal against the petitioner. Learned Joint Registrar, Cooperative Societies as well as learned Tribunal ought to have taken lenient view while deciding the application for condonation of delay. He would further submit that the learned Courts below have not considered the provision of Section 65(3) of the Act, 1960 which says that Registrar may admit a dispute after the expiry of the limitation period if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period. Learned counsel for the appellant has placed reliance upon the judgment passed by this Court in W.P.(S) No. 5215 of 2019, Omprakash Dubey vs. State of Chhattisgarh & Others dated 17.07.2019 and would submit that on same set of facts and circumstances, this Court in the matter of Omprakash Dubey (supra) has set aside the order passed by the Courts below and remitted back the matter to the Joint Registrar, Cooperative Societies to proceed and decide the case of the petitioner on its merit ignoring the aspect of limitation.

5. It has been pointed out by learned counsel, appearing for the respondents that in an identical matter, this Bench had dismissed WA No.335/2023 (Hazim Mohamadded v. State of Chhattisgarh) vide order dated 17.08.2023 observing as follows :

"8. Considering the submissions made by the learned counsel for the parties and upon perusing the impugned order and order passed in Omprakash Dubey (supra), it is clear that while passing the order in Omprakash Dubey (supra), the judgment passed by the Hon'ble Supreme Court in Noharlal Verma (supra) has not been brought to the notice of the Court and thus, the learned Single Judge erred in passing the said order, which cannot be rectified at this stage as in Noharlal Verma (supra), it is mandatory to raise dispute within 30 days from the

date of order sought to be impugned before the Registrar or its Officer and the delay if any caused, cannot be condoned by such authority. In the present case, there was delay of 15 days in raising dispute and the Joint Registrar as well as learned Tribunal have rightly arrived at conclusion that the delay caused in raising dispute cannot be condoned according to first proviso to Section 55(2) of the Act, 1960 as there is no such provision of condonation of delay analogous to Section 5 of the Limitation Act, 1963, we do not find any illegality or infirmity in the order impugned passed by the learned Single Judge.

9. Accordingly, the writ appeal stands dismissed.”

Since the facts and issue involved in the present case is identical to that of WA No. 335 of 2023, this appeal may also be dismissed in the same terms.

6. Having considered the rival submissions made by learned counsel for the parties and having gone through the materials on record, it is evident that the facts and issue involved in this appeal is identical to WA No. 335 of 2023, this Court deems it appropriate not to take a view other than what has been taken in WA No. 335 of 2023.

7. Accordingly, the present appeal is dismissed in terms of the order dated 17.08.2023 passed in WA No. 335 of 2023.