

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.1722/2002

This the 20th day of January, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Shankar Prasad, Member (A)

Ct. (Drv.) Rai Singh, No.4939/DAP
S/o Shri Risal Singh,
R/o H.No.RZ 521, Gali No.20,
Sadh Nagar II, Palam Colony,
New Delhi-110045.Applicant
(By Advocate : Shri U. Srivastava)

Versus

Govt. of NCT of Delhi through

1. The Chief Secretary,
Govt. of N.C.T. Delhi, 5, Sham Nath Marg,
New Delhi.

2. The Commissioner of Police,
Police Headquarters
I.P. Estate, New Delhi.

3. Addl. Commissioner of Police,
Armed Police, New Police Line (NPL)
Kingsway Camp, Delhi.

4. The Dy. Commissioner of Police,
V.Bn. DAP, Kingsway Camp, Delhi.

....Respondent

(By Advocate : Shri Ajay Gupta)

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman :

The applicant was a Constable (Driver) in Delhi Police. He was proceeded departmentally. After the inquiry report, disciplinary authority had passed an order dismissing the applicant from service. Against the said order, the applicant preferred an appeal, which was disposed of on 8.8.1996 whereby the order of dismissal was set aside and it was modified in the following lines :-

".... I am, therefore, inclined to set aside the order of the disciplinary authority and modify the order that his 3 years approved service be forfeited permanently for a period of

ll Ag

(2)

3 years. The pay of Const. (Driver) Rai Singh No.4953/DAP is reduced by three stages from Rs.1150/- to Rs.1090/- P.M. He will not earn increment of pay during the period of reduction and the expiry of this period, the reduction will have the effect of postponing his future increment of pay. He is re-instated in service with immediate effect. The intervening period from his date of dismissal to the date of reinstatement will be treated as period not spent on duty. The period from the date of reinstatement to the date of joining will be treated as leave of kind due. The cost of repair be recovered from his pay in easy installments."

2. The applicant preferred the present original application on 4.7.2002 seeking quashing of the orders of the disciplinary authority and the appellate authority. Along with the said application, one miscellaneous application, being MA No.1456/2002, has been preferred seeking condonation of delay in filing the original application. It has been pleaded that there was another departmental inquiry against the applicant. On 24.10.1996, in pursuance of that inquiry, he was dismissed. The said order of the disciplinary authority was confirmed on 18.2.1997. The applicant had challenged the said order by filing OA No.8/1998. This Tribunal had set aside that order vide order dated 9.11.2000 and thereafter the applicant was re-instated in service on 1.12.2000. The applicant contends that he had handed over the file to the counsel but the said counsel had been befooling the applicant and, therefore, it is prayed that the delay in filing of the present original application may be condoned. Needless to state that the misc. application is being opposed.

3. It is not in dispute at either side that in terms of Section 21 of the Administrative Tribunals



Act, 1985, the period of one year is prescribed for filing of the application in this regard from the date when the final order has been made. Admittedly, the final order in the present case had been passed way-back in 1996 and the present application has been filed after a lapse of six years. The ground taken that the counsel for the applicant to whom the brief was handed over has befooled him, can only be stated to be rejected. The reasons are obvious and not ~~too~~ far to fetch. The name of the said counsel and the date when the file was given to said counsel is anybody's guess. The applicant cannot be kept in the dark about the material facts. Merely stating therefore that the counsel had been keeping the applicant in dark, in the absence of other facts, is of little consequence. In fact in the said matter, it is being highlighted that the applicant had been reinstated on 1.2.2002. Even the present application was not filed within one year from that date. Though the other litigation had no mention about the present controversy, even if the above contention is looked into, still the application is time barred.

4. There are no just and sufficient grounds forthcoming even if one reads the misc. application of the applicant seeking condonation of delay.

5. Resultantly, MA 1456/2002 must fail and is accordingly dismissed. As a consequence thereto, OA 1722/2002 also fails and is dismissed. No costs.

Shankar Prasad
(Shankar Prasad)
Member (A)

/ravi/

V.S. Aggarwal
(V.S. Aggarwal)
Chairman

Central Administrative Tribunal, Principal Bench

Review Application No.296 of 2003 in
Original Application No.1722/2002

New Delhi, this the 28th day of October, 2003.

Hon'ble Mr.Justice V.S. Aggarwal, Chairman

Hon'ble Mr.Shankar Prasad, Member(A)

Ct.(Dvr.) Rai Singh, No.4939/DAP
S/o Shri Risal Singh,
R/o H.No.RZ 521, Gali No.20,
Sadh Nagar II, Palam Colony,
New Delhi-45

....Applicant

versus

Govt. of NCT Delhi through

1. The Chief Secretary,
Govt. of N.C.T. Delhi,
5,Sham Nath Marg,
New Delhi.
2. Commissioner of Police,
Police Head Quarters,
I.P.Estate, New Delhi.
3. Addl.Commissioner of Police,
PCR and Communication,
Police HQ, IP Estate, New Delhi.
4. The Dy. Commissioner of Police,
Police Control Room,Model Town-II,
New Delhi

....Respondents

Order (By Circulation)

By Justice V.S. Aggarwal, Chairman

The applicant had filed O.A.1722/2002. It was dismissed holding that there is no ground to condone the delay.

2. The reason given for condonation of the delay was that the counsel had been befooling him that the original application has been filed while in fact, the same had not been filed.

3. In the review application, totally different plea is being raised which was not a part of the application seeking condonation of delay. In review,

ls Ag

new pleas cannot be permitted to be taken. Thus we hold that there is no error apparent on the face of the record. Review petition must fail and is dismissed. *in circulation*

Shankar Prasad
(Shankar Prasad)

Member (A),

V.S. Aggarwal
(V.S. Aggarwal)

Chairman.

/dkm/