

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1061/2002

New Delhi this the 24th day of January, 2003

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Smt. Manju Bala,
Sub Inspector No.D-779,
Delhi Police, IGI Airport,
New Delhi.

... Applicant

(None present)

-Versus-

1. Commissioner of Police,
Police Headquarters,
MSO Building, ITO,
New Delhi.

2. Deputy Commissioner of Police,
I.G.I. Airport,
New Delhi.

... Respondents

(By Advocate Shri Rishi Prakash)

O R D E R

Through this OA, applicant, a Woman Sub Inspector in Delhi Police challenges the adverse remarks, communicated for the period 1.4.97 to 20.2.98 as well as order dated 4.12.98, rejecting the representation made against the adverse remarks.

2. Applicant, who was working as Sub Inspector in Delhi Police was deputed at IGI Airport during the period 1.4.97 to 20.2.98, the following adverse remarks have been communicated to her by the Deputy Commissioner of Police:

"Overall assessment - she needs regular goading for work and is having a callous attitude towards her duty."

3. Applicant preferred a representation against

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the adverse remarks which was considered and rejected maintaining the remarks by an order dated 4.12.1998.

4. Applicant on the basis of the adverse remarks has not been found fit for grant of 1st/2nd financial upgradation under the ACP Scheme by the Departmental Screening Committee by an order dated 3.12.2001.

5. Accordingly a revision petition has been filed by applicant to the Commissioner of Police against the adverse remarks where she has been asked to appear before the Joint Commissioner of Police by an order dated 1.2.2002, but no final decision has been taken on the revision. Hence, the present OA.

6. None appeared for applicant, even on the second call. OA is disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

7. Though the cause of action had arisen to applicant against the adverse remarks on 4.12.98, yet the OA has been filed after a delay of about four years without any application for condonation of delay. However, in the pleadings it is stated that revision petition filed has been rejected on 1.2.2002 and on merits it is stated that having adjudged applicant in the ACR as devoted to her duty and found initiative good the remarks are unfounded without any basis. The conclusion arrived at by the authority is neither objective nor based on any deficiency, including the memo, warning or any independent material to establish

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that applicant had needed regular goading for work and was callous towards her duty. The remarks are contractual and are not sustainable.

8. Learned counsel for respondents Shri Rishi Prakash vehemently opposed the application on a preliminary objection of OA being time barred. According to him as per Section 21 of the Administrative Tribunals Act, 1985 applicant was aggrieved by an order passed on representation on 4.12.98. This OA could have been filed upto 4.12.99 and as the same has been filed after a delay of about more than two years the same suffers from delay and laches. Moreover, while referring to the revision petition it is stated that as per rules only one representation is permissible against the adverse remarks. The revision petition filed is not a statutory remedy available to applicant. The revision itself was filed beyond the prescribed time limit and the same is not taken cognizance of.

9. On merits as well, it is contended that the remarks are well founded and as applicant had lacked initiative and was callous towards her duties the same are based on record and cannot be interfered with by this Court.

10. I have carefully considered the rival contentions of the parties and perused the material on record. At the outset remedy of revision is not available under the rules against adverse remarks. The only remedy is a representation to the appellate authority and once the same has been rejected on 4.12.98 having failed to file the

OA within the stipulated period of limitation under Section 20 of the Administrative Tribunals Act, 1985 and in absence of any application for condonation of delay this court has no jurisdiction to suo moto condone the delay.

11. In so far as orders passed on 1.2.2001 is concerned, the same is not a rejected order. Later, as the revision was filed beyond the period of limitation the same has not been taken cognizance of. The Apex Court in Hukum Rai Kingswara v. Union of India, (1997) 4 SCC 284 as well as State of H.P. v. Udham Singh Kamal, 2000 SCC (L&S) 53 has held that without an MA or explanation of delay Tribunal is without jurisdiction to admit the OA or deal with the issue of limitation. Moreover the following observations have been made by the Apex Court in P.K. Ramachandran v. State of Kerala & Anr., JT 1998 (7) SC 21:

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extent the period of limitation on equitable grounds."

12. In the light of what has been stated above, the preliminary objection of the respondents is sustained in absence of any justified explanation of delay or any application for condonation of delay to that effect the OA is liable to be dismissed as time-barred. Moreover, the present OA has been filed as an after thought when applicant has been denied financial upgradation under ACP Scheme on 3.12.2001.

13. In the result the OA is dismissed, as time barred, but without any order as to costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)