

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2150/2001

New Delhi this the 8th day of October, 2002.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Braham Pal Singh,
S/o Sh. Agdi Ram,
R/o 4258, Basti Ram Lal,
Sadar Bazar,
Delhi.

~Applicant

(By Advocate Shri L.C. Rajput)

~Versus~

1. The Commissioner of Police (Delhi),
Police Headquarters,
I.P. Estate,
New Delhi.

2. Joint Commissioner of Police,
(Operations),
Delhi.

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

~Respondents~

(By Advocate Shri Ram Kanwar)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Applicant impugns dismissal order dated 20.7.98
as well as appellate order dated 26.2.99, rejecting his
appeal, as time barred.

2. Applicant was proceeded against in a
departmental enquiry for his habitual absenteeism as well
as for his past bad record. Enquiry Officer held the
applicant guilty of charge which has been agreed to by the
disciplinary authority. A representation was filed against
the finding and the disciplinary authority by an order
dated 20.7.98 imposed upon him a penalty of dismissal.

3. Applicant received a copy on 27.8.98 but preferred an appeal on 8.9.98. Before that he sought for copies of the documents to be served upon him for making an effective appeal. This request was made on 27.7.98. In the appeal applicant has taken several contentions on merit, including personal hearing.

4. The appellate authority without going into the merits of the case and without dealing with the proportionality of punishment and other infirmities as pointed out by the applicant in his appeal, dismissed the appeal as being time barred.

5. Learned counsel of the applicant contends that as the applicant had completed 23 years of qualifying service and the appellate authority who is alone the competent authority to go into the proportionality of the punishment has not at all gone into the merits of the case and dealt with his legal contentions, rather on a technical issue of limitation rejected the appeal without going into the fact that before filing an appeal he has asked for the documents from the department for filing an effective appeal. There was no delay in filing the appeal and moreover under Rule 25 of the Delhi Police (Punishment & Appeal) Rules, 1980 delay can be condoned in the interest of justice. It is further stated that in pursuance of his application wherein he has asked for certain documents, by an order dated 24.9.98 he has been asked to deposit the fee and to get the documents requested for.

6. On the other hand, respondents have taken a plea that the misconduct of the applicant was thoroughly proved and as no justifiable grounds have been raised to condone the delay, appeal has been dismissed on limitation as per the rules.

7. We have carefully considered the rival contentions of the parties and perused the material on record. Having regard to the fact that the applicant has immediately on receipt of the copy of the dismissal had requested for supply of certified copy of few documents which has not been responded to till 24.9.98. He preferred the appeal on 8.9.98. We do not find any delay in preferring the appeal. Moreover, the appellate authority is within its right to condone the delay as per Rule 25 ibid.

8. We find that the applicant who had already served the department for 23 years and has impugned the extreme punishment of dismissal on merits through his appeal, it was incumbent upon the appellate authority not to have rejected the appeal being time barred. It was his duty to go into the merits of the case, including recording of a finding of proportionality of punishment as raised in the appeal by the applicant.

9. This has greatly prejudiced the applicant and he has been deprived of a right to persuade the appellate authority to take a lenient view having regard to his long service. However, we do not express any opinion on the merits of the case.

(R)

10. In the result, for the reasons recorded above, we are of the view that ends of justice would be duly met if the present OA is partly allowed by setting aside the appellate order and the matter be remanded back to the appellate authority to be reconsidered within a period of three months from the date of receipt of a copy of this order by passing a detailed and speaking order. We order accordingly. No costs.

S. Raju

(Shanker Raju)
Member (J)

M.P. Singh

Member (A)

'San.'