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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.2528/2001

This the 1st day of January, 2003

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

Constable Shakeel Ahmed No.1136/E,
S/o Mohd. Marghoob
R/o Village Khanpur, Kangra,
Ikla, Rasal Pur,
Parikshatt Grah,
Meerut U.P.

....Applicant
(By Advocate : None for the applicant even on the
second call.)

Versus

1. Government of National Capital Territory,
Delhi, Through Secretary Home,
Sachivalay, New Delhi.
2. Commissioner of Police,
Police Head Quarter,
ITO, New Delhi.

....Respondents
(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman :

Applicant, Shakeel Ahmad, is a Constable in
Delhi Police.

2. By virtue of the present application, he seeks setting aside of the order dated 24.11.1999 purported to have been passed by the Commissioner of Police whereby punishment of forfeiture of two years approved service permanently for a period of two years entailing proportionate reduction in pay of the applicant has been imposed. He also seeks a direction to count the entire service period of the applicant and pay the entire pay and arrears to him in this regard.

V.S. Aggarwal

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3. Some of the relevant facts are that the applicant was dealt with departmentally for the alleged misconduct/corrupt activities of unbecoming of a member of the police force. It had been asserted that a PCR call was received at Police Station Shaker Pur vide DD No.24A dated 15.10.1996. It was to the effect that one Shri Vinod Kumar had complained that three police personnel had taken away Rs.15000/- from Smt. Kaushalya Jain, sister-in-law of Shri Vinod Kumar. In order to ascertain the fact, the matter was enquired by the Assistant Commissioner of Police. The inquiry made revealed that Constable Brij Pal, Constable Jai Prakash and the applicant while posted in special staff of East Delhi had gone to the residence of Smt. Kaushalya Jain on 5.10.1996 and demanded Rs.40,000/- as a bribe. They had threatened her that they have been selling gas cylinders in black and can be arrested. The amount was demanded as illegal gratification. At the intervention of Shri Saket Gupta and Shri Kamal Jain, the matter was settled at Rs.15,000/-. The constables referred to above received Rs.15,000/- illegally from Smt. Kaushalya Jain.

4. The inquiry officer had written the findings that the assertions have not been proved. However, the disciplinary authority had taken a view to the contrary that the applicant and others were not fit persons to be retained in police force. The order of dismissal was passed on 14.5.1998. It led to filing of an appeal, which was rejected by the appellate



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authority. Thereafter a revision petition was preferred by the applicant along with other persons. The revisionary authority vide order dated 24.11.1999 had modified the punishment of dismissal from service to that of forfeiture of two years approved service permanently for a period of two years entailing proportionate reduction in their pay. The intervening period i.e. from the date of dismissal to the date of joining was to be treated as dies non.

5. The applicant had preferred two miscellaneous applications MA No. 2113/2001 and MA No. 2718/2001, wherein it has been prayed that delay in filing the present application may be condoned. Admittedly the delay runs into 290 days. The reasons given have been stated to be in terms that the other co-delinquents had preferred separate original applications in this Tribunal and the orders passed by different authorities imposing certain punishments referred to above have been quashed on which it has been pleaded that the applicant was under the impression that he would get the benefit of the cited orders passed by this Tribunal in OA No. 31/2000 decided on 19.12.2000 and, therefore, the delay had occurred in filing of the present application.

6. A perusal of the records reveals that for the past many occasions, there was no appearance on behalf of the applicant. We do not have the advantage of hearing the learned counsel for applicant and are



proceeding to decide the matter as advised at the bar by the respondents' learned counsel.

7. The decision in law is not the subject matter of controversy. Once the statute (Administrative Tribunals Act, 1985) in this case has prescribed a particular period of limitation, the application so filed beyond the said period necessarily must show just and reasonable ground for condonation of delay. There is no straight jacket formula as to what extent the said ground for condonation of delay has to be followed in the facts and circumstances of each case.

8. What is the position herein? The applicant did not care to challenge the order passed by the Commissioner of Police dated 24.11.1999. After the period of limitation had expired, he had preferred the present application stating that because certain other co-delinquents had preferred applications and succeeded, he should also be given the said benefits.

9. Our attention has been drawn to apprise the decision of the Apex court in the case of State of Karnataka and Others Vs. S.M. Kotrayya and Others, (1996) 6 Supreme Court Cases 267. In the cited case, S.M. Kotrayya and others, who were respondents before the Supreme Court, were working as teachers in the Department of Education. They had availed of Leave Travel Concession during the year 1981-82. But it was later found that they had never utilised the benefit

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of LTC but had drawn the amount and used it. The recovery was made in the year 1984-86. Certain other persons who are similarly circumstanced had challenged the recovery before the Central Administrative Tribunal and their applications had been allowed. On coming to know all these facts, S.M. Kotrayya and others had filed the application before this Tribunal and prayed for condonation of delay. The Supreme Court repelled the said ground for condonation of delay and held as follows:-

"9. Thus considered, we hold that it is not necessary that the respondents should give an explanation for the delay which occasioned for the period mentioned in sub-sections (1) or (2) of Section 21, but they should give explanation for the delay which occasions after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should be required to satisfy itself whether the explanation offered was proper explanation. In this case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What has required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) and (2). That was not the explanation given. Therefore, the Tribunal is wholly unjustified in condoning the delay."

10. The decision of the Apex court will have its binding force. The facts by and large are para materia as have been noted above with the present petition. Others having succeeded in challenging the said order, the applicant did not care to challenge the said order at an appropriate time. It is ~~to be~~ ^{too late} ~~for~~ left only to the applicant to assail the same on the ground that the other persons have succeeded in



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getting the same order being quashed and the present applicant seeks condonation of delay should be allowed by not following the decision of the Supreme Court in the case of S.M. Kotrayya (supra).

11. We find that there is no just and sufficient ground for condonation of delay.

12. Resultently, both MA 2113/2001 and MA 2718/2001 as well as Original Application fail and are accordingly dismissed.

V. Srikantan
(V. Srikantan)
Member (A)

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

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