

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 468/2001  
MA 428/2001

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New Delhi this the 1st day of March, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

Ex. Const. Tej Pal Singh  
S/O Shri Gariba  
R/O Vill. & P.O. Aminagar Sarai  
District Meerut (UP)

..Applicant

(By Advocate Shri Arun Bhardwaj,  
learned counsel through proxy  
counsel Shri Ravi Kant Jain )

VERSUS

1. Union of India through  
Commissioner of Police,  
Police Headquarters, I.P. Estate,  
New Delhi.
2. Addl. Commissioner of Police  
(Armed Police ) PHQ, I.P. Estate,  
New Delhi.
3. Deputy Commissioner of Police  
4th Bn. DAP. Delhi.

..Respondents

(By Advocate Ms. Neelam Singh )

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

In this application, the applicant has challenged the vires of the punishment orders imposed on him by the respondents, namely, disciplinary authority's order dated 16.1.1999 removing him from service as Constable in Delhi Police. Appeal submitted by him to the competent authority has also been dismissed by the appellate authority's order dated 7.6.1999.

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2. The above orders have been passed by the respondents, after holding a Departmental proceeding against the applicant under the Delhi Police Act, 1978 read with the provisions of Delhi Police (Punishment and Appeal) Rules, 1980. The applicant has also filed MA 428/2001 along with the OA on 22.2.2001 praying for condonation of delay of about eight months and 16 days in filing the present application. We have heard Shri Ravi Kant Jain, learned proxy counsel for the applicant and Ms. Neelam Singh, learned counsel for the respondents. In Para 3 of the MA, the applicant has stated that he was suffering from "serious ailment and he was advised complete bed rest by the Doctors and he was only able to move out of bed on 3.2.2001". To support this averment, learned proxy counsel has relied on a certificate issued by Dr. H. Kishana of the Nav Jyoti Medicare Centre and Maternity Home, District Bagpat (UP). During the hearing learned proxy counsel fairly admitted that he is unable to help us in deciphering the certificate. As mentioned by Mrs. Neelam Singh, learned counsel for the respondents neither the applicant has disclosed his illness nor in the medical certificate the serious ailment/ disease is clearly mentioned which required several months of bed rest. Learned counsel for respondents has submitted that the applicant has also failed to mention the disease from which he was suffering during the period of his unauthorised absence for which he was proceeded in the Departmental proceedings. She has further submitted that the certificate issued by the Doctor of Medicare Centre and Maternity Home relied upon by the

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(A)

applicant does not in any way mention that the applicant was under medical bed rest during the relevant period i.e. 1.3.2000 to 2.2.2001 for about eleven months. She has also submitted that this certificate is submitted by the applicant from <sup>a private</sup> private Medicare Centre and Maternity Home and not from <sup>a Govt.</sup> Govt. Hospital which has not even specified the nature of the ailment the applicant was suffering for <sup>the</sup> long period from 1.3.2000 to 2.2.2001. From the applicant's own admission, the present OA has been filed after more than eight months after the aforesaid impugned orders have been passed, the appellate authority's order being 7.6.1999. The period of limitation as prescribed by Section 21 of the Administrative Tribunals Act, 1985 is one year from the date when the cause of action has arisen which in this case would be 7.6.1999. Section 21 (3) of the Administrative Tribunals Act, 1985 provides as below;-

" Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period".

As seen from sub-section(3) of Section 21, the Tribunal has a discretion to condone the delay if "sufficient cause for not making the application within the period prescribed is shown".

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Item-2

OA-468/2001  
MA-428/2001

7.12.2001

Present: Sh.Udai Bhan proxy counsel for Sh.  
Arun Bhardwaj for applicant.

Sh.Jasbir Singh proxy counsel for Ms.  
Neelam Singh for respondents.

Counter has been filed. List the case before  
court for admission on 9.1.2002.

(DIWAKAR KUKRETI)  
JOINT REGISTRAR

RB

94-2012

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OA-468/07

MA-428/2001

Present:

~~Pr~~ Shri Harwinder Oberoi proxy counsel  
for Shri Arun Bhardwaj for applicant.  
None for respondents

Proxy counsel prays for a week's

time to file rejoinder.

List before JR on 28/1/2002.

VS

(Mrs. Lakshmi Srinivasan)  
VCIS)

MTM  
(S.R. Acharya)  
VCCA)

GRU

P/complete  
or not admit

06.

OA 468/2001  
MA 428/2001

28.01.2002

Present.: Shri Pradeep Dahiya, proxy counsel for Shri  
Arun Bhardwaj, counsel for applicant.

Shri Yashvir Singh, proxy counsel for Mrs.  
Neelam Singh, counsel for respondents.

Pleadings are complete in this case. However,  
learned proxy counsel for respondents submits that they have  
not received the copy of the rejoinder. Applicant is  
directed to serve the respondents a copy of the rejoinder.

Place it before the Court for admission on  
06.02.2002.

( A.K. SAHOO )  
DY. REGISTRAR

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not admitted  
Pleading Complete

6.2.2002

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OA 468/2001  
MA 428/2001

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Present : Shri Arun Bhardwaj, learned counsel through proxy  
counsel Shri Sandeep Dhayia, counsel for the  
applicant.

Ms. Neelam Singh, learned counsel for the respondents.

Pleadings in this case are reportedly complete.

Admit, subject to legal pleas.

List for hearing in its turn.

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( S.A. T. Rizvi )  
Member (A)

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(Smt. Lakshmi Swaminathan )  
Vice Chairman (J)

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on admitted  
Pleading Complete

13-2-2002

(9)

CA = 468/2001

M.A - 428/2001

Present. Shri Arun Bhardwaj, learned  
counsel for the applicant  
Mrs. Neelam Singh, learned  
counsel through proxy counsel Mrs.  
Somedha Sharma, counsel for the  
respondents.

Learned proxy counsel for  
the respondents seeks short adjournment on  
the ground that Mrs Neelam Singh, learned  
counsel has some personal difficulty.

List on 18-2-2002.

(M. P. Singh)  
Member (A)

(Smt. Lakshmi Swaminathan)  
Vice Chairman(-)

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18.2.2002

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O.A.468/2001  
MA 428/2001

Present : None for applicant

Shri Jasveer Singh, learned proxy counsel for  
Mrs. Neelam Singh, learned counsel for the  
respondents

List on 26.2.2002.

(Govindan S. Tampi)  
Member (A)

/pkr/

(Mrs. Lakshmi Swaminathan)  
Vice Chairman (J)

R-5

28-2-2002

QA 468/2001

MA 428/2001

(11)

Present:- Shri Arun Bhardwaj, learned counsel for the applicant through learned proxy counsel Shri Pradeep Dubey.

Mrs. Neelam Singh, learned counsel for the Respondent.

Deputy Representative Shri Vikrant;

1. Learned proxy counsel for the applicant has opened his arguments.

2. List on 1-3-2002 is put ahead for concluding arguments. No further adjournment shall be granted.

(Goverdhan S. Tampi)  
M(A)

(Smt. Lakshmi Swaminathan)  
VC(T)

1-3-02

Present:- Sh. Ravi Kant Jain proxy counsel for  
Sh. Arun Bhardwaj counsel for the applicant  
Mrs. Neelam Singh counsel for the Respondents.

CA has been dismissed orders passed separately  
in the open court by the bench of  
Honble Mrs. Lakshmi Swaminathan VC(T)  
Honble Mr. Goverdhan S. Tampi M(A)

B.D.  
C O C III

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3. We have carefully perused the averments made in MA 248/2001 and considered the submissions made by the learned counsel for the parties. We find merit in the submissions made by Ms. Neelam Singh, learned counsel for the respondents that the applicant has shown absolutely no grounds, let alone sufficient cause, for not making the application within the prescribed limit as laid down under Section 21 of the Administrative Tribunals Act, 1985, to condone the delay of over eight months in filing the present application. Therefore, in the facts and circumstances of the case, we find no good grounds to allow ~~the~~ MA 428/2001. We are fortified in the view we have taken by ~~the~~ several judgements of the Hon'ble Supreme Court (See for example State of Karnataka and Ors Vs. S.M. Kotrayya and Ors (1996 SCC (L&S) 1488, S.R. Bhanrale Vs. Union of India and Ors (1996 SCC (L&S) 1384), and Ratan Chandra Samanta and Ors Vs. Union of India & Ors (JT 1993 (3) SC 418)).

4. In the case of State of Karnataka and Ors's case (supra), the Hon'ble Supreme Court has held as follows:-

"Although it is not necessary to give an explanation for the delay which occurred within the period mentioned in sub-sections (1) or (2) of Section 21, explanation should be given for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should satisfy itself whether the explanation offered was proper. In the instant 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 was required to them to explain under sub-sections

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(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) or (2). That was not the explanation given. Therefore, the Tribunal was wholly unjustified in condoning the delay".

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Having regard to the settled position of law with regard to limitation, we therefore, find ourselves unable to agree with the contention of the learned proxy counsel for the applicant that MA 428/2001 should be allowed. On the contrary we find merit in the submissions made by the learned counsel for the respondents that OA is hopelessly barrred by limitation.

5. In the result, for the reasons given above, OA fails and it is dismissed. No order as to costs.

Govindan S. Tampi  
Member (A)

(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)