

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.65/98

New Delhi, this the 14th day of November, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Asstt. Sub-Inspector Chela Ram
No.1181/D, S/O Late Har Kishan, aged 54
years, presently posted at Police
Training School, R/O Vill. & PO-Kulasi,
Distt. Rohtak, Haryana.

....Applicant..

(By Advocate: Sh. Shachin Chauhan, proxy for
Sh. Shankar Raju)

VERSUS

1. Union of India through its
Secretary, Ministry of Home
Affairs, North Block, New Delhi.
2. Sr. Addl. Commissioner of
Police, Administrative, Police
Head Quarters, I.P.Estate, MSO
Building, New Delhi.
3. Dy.Commissioner of Police, HQ (I),
Police Head Quarter, IP Estate,
New Delhi.

....Respondents..

(By Advocate: Sh. Amit Rathi, proxy for
Sh. Rajan Sharma)

O R D E R (ORAL)

By Hon'ble Shri Justice Ashok Aggarwal, Chairman:-

Applicant was enrolled as Constable in Delhi
Police on 9.1.63. He was promoted to the rank of Head
Constable in the year 1972. He was further promoted to
the rank of Asstt. Sub-Inspector in the year 1986. He
was further promoted as adhoc Sub-Inspector on 14.10.91.
He was finally placed in the promotion list E-I w.e.f.
25.11.94. He was thereafter sent for Upper School
Training Course which training course he successfully
cleared in the month of November, 95. By an order passed
on 17.8.95, disciplinary proceedings were initiated
against him on the allegation that he had left his duty

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place prior to requisite time and before handing over the duty to his reliever. By an order passed on 5.1.96, a penalty of reduction in pay by one stage from Rs.1880/- PM to Rs.1820/- PM in the time scale of pay for a period of one year temporarily with a direction that he will not earn his increments of pay during the aforesaid period and after expiry of this period the reduction will not have the effect of postponing his future increments of pay, was imposed upon him. Aforesaid order of penalty, it is clear, has been imposed upon him for the aforesaid misconduct which penalty applicant has already suffered during the period of one year from the date of the passing of the aforesaid order of penalty of 5.1.96.

2. A show cause notice was issued to the applicant on 29.3.96 whereby applicant's name was sought to be removed from list E-I (Ex.) and he is further sought to be reverted from his post of adhoc SI to that of his substantive post of ASI (Ex.). A copy of the show cause notice is annexed as Annexure A-1. By the impugned order passed on 25.6.96, the name of the applicant has been removed from list E-I and he has further been reverted to substantive rank of ASI (Ex.). Aforesaid order which has been passed by the Dy.Commissioner of Police on 25.6.96 is annexed as Annexure A-2. Applicant taking exception to the aforesaid order, submitted his representation to the Dy.Commissioner of Police who by order dated 16.10.96 has rejected the same. A copy of the aforesaid order dated 16.10.96 is annexed as Annexure A-3. Aforesaid orders are impugned in the present OA on the ground that the aforesaid impugned order of 25.6.96 places the

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✓ ^{double} applicant in jeopardy. He has already been punished for the aforesaid misconduct of leaving duty prior to the prescribed time by imposing a penalty of reduction in pay temporarily for a period of one year. For the very same misconduct, he has further been penalised this time twice over. He has now been imposed a double penalty, ^{he} and has been removed from list E-I and has also been reverted from the post of SI (Ex.) to that of ASI (Ex.). As far as the aforesaid impugned order is concerned, the same contains the following extracts:-

".....Regarding discontinuation of his adhoc promotion to the rank of SI, it is mentioned in the Govt. of India's instructions that Govt. Servant who has held the appointment on adhoc basis more than one year may not be reverted on the basis of Departmental Enquiry. He is not being reverted due to initiation of DE against him, as contended. The adhoc promotion was allowed to the SI because there was not panel list E-I at the relevant time and vacancies existed. Now, there are sufficient ASIs (Ex.) who are on approved panel and are available for regular promotion. As such there is no point in allowing SI Chella Ram, No.1181/D to continue on adhoc promotion when there are eligible officers available for regular promotion.

Keeping in view the above discussion, it is ordered that SI (Ex.) Chella Ram, No.1181/D be reverted to his substantive rank of ASI (Ex.) with immediate effect and his name be removed from promotion list E-I (Ex.)"

3. Though the aforesaid order is not purported to have been issued on the very same misconduct, the facts and circumstances clearly indicate that there is no other cause that could have prompted passing of the aforesaid order. That the applicant had been permitted to be empanelled in list E-I because there was no panel list at

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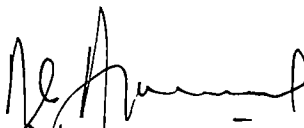
the relevant time and vacancies existed and that thereafter there are sufficient ASIs (E.) who are on approved panel and available for regular promotion can be no ground for passing the aforesaid order. ^{who are juniors} They have been continued in the E-I list whereas the applicant has been reverted. Based on the aforesaid facts, we find that the applicant has undoubtedly an arguable case in his favour.

4. However, a technical objection in regard to limitation has been raised by and on behalf of the respondents. It has been pointed out that the impugned order of reversion as also of removal from the E-I list was passed on 25.6.96 and the representation of the applicant was rejected by a further order dated 16.10.96. The present application, however, has been filed on 5.1.98 which is beyond the prescribed period of limitation provided under Section 21 of the Administrative Tribunals Act, 1985. As far as the said objection is concerned, respondents in their counter in para 3 have submitted that the OA is time barred and, therefore, is liable to be rejected on this sole ground. Even thereafter applicant has taken no steps to file an application for condonation of delay. He has in his rejoinder insisted that the application is very much within time. Since we find that the application has not been filed within the stipulated period of limitation, we are left with no option but to dismiss the present application on this very ground, namely, the application is barred by limitation.

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5. The present OA in the circumstances is dismissed without any order as to costs.


(Ashok Agarwal)
Chairman



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

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