

Three

Central Administrative Tribunal
Principal Bench
New Delhi

CA-1457/95

(3)

New Delhi, the 21st December, 1995.

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K. Ahooja, Member (A)

Chanderpal
S/o Randhir Singh
V.PG Tikri
Distt. Meerut (UP) .. Applicant
(By Sh. DN Goburdun, Adv.)

versus

1. NCT of Delhi.
C/o Law Secretary
Old Secretariat
Delhi.
2. Commissioner of Police
Police Headquarter
New Delhi.
3. Additional Commissioner of
Police, Police Hqrs.
New Delhi. Respondents
(Smt. Jyotna Kaushik, Adv.)

ORDER (Oral)

The applicant who was a constable in Delhi Police was removed from service by an order of the Disciplinary Authority in pursuance of DE by order dt. 11.4.92. According to the rules, the applicant should have filed an appeal within one month/ ^{from} receipt ^{of} the date of the order, ~~but~~ ^{but} this case appeal was received by the Appellate

fully justified.

3. Having given anxious considerations to the case of the

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Authority only on 25.10.94, that is, after expiry of more than five months. The appeal was rejected by the Additional Commissioner of Police on the grounds that the same was filed beyond the period of limitation and that the reasons stated for condonation of delay was not convincing. It is against this order that the applicant has filed this application under section 19 of the Administrative Tribunal praying that the impugned order be quashed and directions be given to respondent No.2 and 3 to dispose the appeal on merits. It has been alleged in the application that though the appellant had entrusted ^{his} ~~his~~ case with an advocate to file the appeal in time, the clerk of the advocate defaulted in sending the appeal, the advocate has dismissed that clerk and that late filing of the appeal was for the above said reasons.

2. The respondents contend that as the appeal was filed beyond the time stipulated and there was no good reasons for condoning the delay, the impugned order is fully justified.

3. Having given anxious considerations to the case of the Parties disclosed in the pleadings and to the arguments of the counsel, we are of the considered view that the appeal submitted by the appellant should have been considered by the Appellate Authority, therefore there was some delay in filing the same. It is evident from the circumstances emerging from the pleadings that the delay in submission of the appeal was not intentional. Since, the punishment awarded to the appellant is removal

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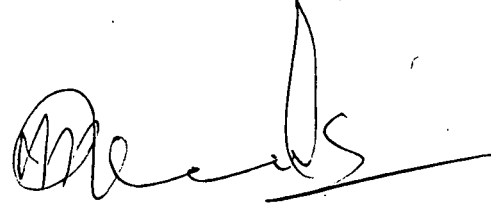
from service, the Appellate Authority should have considered the appeal on merits condoning the delay.

4. In the result, the application is allowed.

The impugned order of the Appellate Authority dismissing the appeal is set aside and the respondents are directed to dispose of the appeal filed by the applicant afresh on merits ^{condoning} ~~considering~~ the delay in submitting the appeal within a period of two months from the date of receipt of a copy of the order.

No costs.

Recd by:-
(R.K. Ahooja)
Member (A)


(A.V. Haridasan)
Vice-Chairman(J)