

Central Administrative Tribunal
Principal Bench

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O.A.No.2209/95

Hon'ble Shri R.K.Ahooja, Member(A)
Hon'ble Shri S.L.Jain, Member(J)

New Delhi, this the 9th day of March, 1999

Shri Virinder Singh
s/o Shri Om Prakash
r/o H.No.76, Gali No.2
Hyderpur
Delhi.
(By Shri B.S.Charya, Advocate) ... Applicant
Vs.

1. Commissioner of Police
Delhi Police
Police Hqrs., M.S.O.Building
I.P.Estate, New Delhi - 2.
2. The Dy. Commissioner of Police
1st Battalion
DAP
Kingsway Camp
Delhi.
3. Union of India
Ministry of Home Affairs
Govt. of India
North Block
New Delhi
(through its Secretary).
(By Shri Surat Singh, Advocate) ... Respondents

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant is a constable in the Delhi Police who was dismissed from service on the basis of a disciplinary enquiry as per copy of the order dated 10.3.1994, Annexure-P1. The applicant had also filed an appeal but the same was also dismissed by order dated 11.11.1994, Annexure-P2 on the ground that the same was filed four days late after the prescribed period of 30 days. The order of dismissal has been challenged on various grounds.

2. We have heard the counsel. It appears to us that the matter should have been considered first by the appellate authority on merit. It has been stated in Annexure-P2 order that Sr. Additional Commissioner of

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Police has not entertained the appeal as the same is time barred. We find that the delay involved is only four days. The applicant had also been asked to explain the reasons of the delay and it has been stated by the learned counsel that the applicant had submitted an explanation that he could not file the appeal in time due to illness. However this explanation has been rejected on the ground that the same is not convincing. We find that the applicant has been imposed the extreme penalty of dismissal from service by the order of the disciplinary authority. In such a case where the very livelihood of the Govt. servant is at stake, the appellate authority cannot take a summary view of the explanation given by the applicant. Here admittedly the delay is of only four days. The appellate authority itself made an enquiry as to why the delay had been taken place. The explanation was given. The power is available with the appellate authority to condone the delay as per Rule 24 of the Delhi Police (Punishment and appeal) Rules, if the explanation given by the applicant is satisfactory. The mere statement that the explanation is not convincing is in our view, not sufficient to dispose of the matter especially in a case where the applicant is faced with the dismissal from service.

3. In the above circumstances, we partly allow the OA and quash the order dated 15.11.1994, Annexure-P2 of the appellate authority. The appellate authority will consider the appeal of hearing and also pass a reasoned and speaking order thereon within a period of four months from the date of receipt of a copy of this order and inform the applicant accordingly.

S.L.Jain
(S.L.Jain)
Member(J)

/rao/

R.K.Ahooja
(R.K.Ahooja)
Member(A)