

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.No.339/95

NEW DELHI THIS THE 21<sup>st</sup> DAY OF FEBRUARY, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)  
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri Naresh Kumar  
S/o Shri Raghubar Dayal,  
Village & P.O. Bhat Gaon,  
District Sonepat, Haryana  
not at New Delhi. ....Applicants

(By Advocate : Shri Shyam Babu )

VERSUS

1. Lt Governor, Delhi,  
Raj Niwas,  
Delhi.
2. Commissioner of Police, Delhi  
Police Headquarters,  
I.P. Estate,  
NEW DELHI-110002.
3. Dy Commissioner of Police,  
2nd Bn, DAP, Kingsway Camp,  
Delhi-110009. ....Respondents

(By Advocate : None )

JUDGEMENT

Shri B.K. Singh, Member (A)

This O.A.No.339/95 under Section 19  
of the Administrative Tribunal Act, 1995  
has been filed against the Order No.3074/SIP  
(PHQ) dated 10.2.94 (Annexure-A).

2. The facts of the case are that in  
1982 the applicant applied for being appointed  
as Constable in Delhi Police. He qualified



in the written examination and was sent for medical examination on 25.3.82. The applicant after medical examination was informed that he required relaxation of 2 inches in the chest. The applicant made a representation on 15.2.1992 to Respondent No.2 & 3 for appointment as Constable in Delhi Police. A copy of this Annexure is marked as Annexure-D of the Paper-book. He made further representation on 24.6.93 and on 20.9.93 and these are marked collectively as Annexure-'E' of the Paper-book. The representation was rejected vide order dated 24.6.93 on the ground that he was not granted required relaxation by the competent authority as per policy decision in the year 1982.

3. The reliefs prayed for are :-

- (i) To call for the records of the case and give direction to the respondents No.1 to grant relaxation to the applicant in accordance with Rule 30 of the Delhi Police (Appointment & Recruitment) Rules, 1980.
- (ii) to give further direction to the respondents to appoint the applicant as Constable in Delhi Police with effect from 1982 and grant all consequential reliefs/benefits whether

seniority, promotion and monetary.

4. We heard the learned counsel Shri Shyam Babu for the applicant on admission and limitation.

5. The cause of action arose in 1982. On 25.3.1982 the applicant was denied appointment as Constable in Delhi Police on the ground of physical unfitness. This application was filed on 14.2.1995. The limitation period starts from the date of rejection of the candidature on grounds of physical unfitness i.e. 25.3.82 and if a representation/appeal is filed we may add six months more under Section 21 of the C.A.T. Act, 1985, i.e. the applicant could have approached the Tribunal by 24.9.83. It is admitted that the cause of action in the particular case arose in 1982 and the first representation was filed by the applicant in 1992 i.e. after a lapse of one decade. There is neither an application for condonation of delay nor has this abnormal delay been explained in any way. There is no continuing cause of action in the instant case. An appeal or representation has to be filed within one year when the cause of action actually arose and the application before Tribunal would lie after six months whether the representation/appeal is disposed off or not. Thus the period of limitation provided for admission is one and a half years from the date of cause of action. This has been held by the Hon'ble Supreme Court in case of S.S. Rathore Vs State of M.P., AIR 1990 SC 10. This view has been further reinforced in case of State of Punjab Vs Gurdev Singh

(1991)4 SCC-1. It has been laid down by the Hon'ble Supreme Court that an aggrieved party must approach the Court for relief of declaration that the order against him is inoperative and not binding upon him within the prescribed limitation and in case of this Tribunal the limitation period has been prescribed under Section 21 of the CAT Act.

After the expiry of the statutory time limit the Court cannot grant the relief sought for. The limited power that is vested for filing an application is prescribed under Section 21 of the CAT Act 1985. The Hon'ble Supreme Court in case of Union of India Vs Ratam Chandra Samanta, JT 1993 (3) 418 has observed clearly that delay defeats a right and if a right is defeated the remedy is also lost. This application thus is badly hit by delay and laches.

6. Secondly, relaxation is a power vested in the authorities under Statutory Rules and it is their sole discretion and no direction can be issued by the Tribunal to the respondents in this regard. Individual cases have to be decided on their own merits.

It is admitted that <sup>general</sup> no relaxation has been given and as such there is no discrimination

as alleged by the learned counsel for the applicant. If a general relaxation had been given and the applicant would have been denied that relaxation he could have had a grievance and article 14 and 16 of the Constitution would have been attracted. There is no general relaxation and as such there is no grievance arising to the applicant.

7. Prescription of qualification including medical, educational etc are strictly within the domain of the executive and so is the power to relax them. The Hon'ble Supreme Court in case of Rangaswami Vs Government of Andhra Pradesh and Others AIR 1990 SC-535 have held that it is none of the business of the Courts to scrutinise the qualifications prescribed for posts. The relevancy and suitability of these qualifications is not for Courts to consider and assess. If a particular qualification is causing hardship to the candidates the proper course is to approach the authorities for a review of the prescribed qualifications. Courts, however, must refrain from assessing the validity of these qualifications. This being so no *casuus a facie* case is made out for admission

*Reserve of Right*  
*B*

and the application is summarily rejected  
under Sub-section 3 of Section 19 as hit by  
delay and laches and also on merits there  
being no grievance requiring adjudication.

  
(B.K. SINGH)  
MEMBER (A)

  
(J.P. SHARMA)  
MEMBER (J)

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