

13

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1732/1997

New Delhi, this 14th day of December, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S.P. Biswas, Member(A)

Ex. Constable Kishan Pal
Vill. & PO Aheer, Dt. Sonipet, Haryana .. Applicant

versus

Union of India, through

1. Secretary
Ministry of Home Affairs, New Delhi
2. Commissioner of Police
Police Hqrs., IP Estate, MSO Building
New Delhi
3. Sr. Addl. Commissioner of Police
Police Hqrs., New Delhi
4. Addl. Dy. Commissioner of Police
New Delhi Dt., New Delhi .. Respondents

(By Advocate Shri Rajinder Pandita)

ORDER

Hon'ble Shri S.P. Biswas

The applicant, ex-constable of Delhi Police, is aggrieved by the order of dismissal dated 22.7.91 issued by R-4 as well as rejection of revision petition dated 22.3.96. Consequently, he has sought for quashing the impugned orders at A-1, A-2 and A-3.

2. The main plank of applicant's attack is that the order of punishment as well as proceedings of departmental enquiry are in violation of principles of natural justice and contrary to the rules laid down for holding departmental proceedings.

3. As per the applicant, after the period of absence had been regularised nothing should survive thereafter and yet the applicant has been served with charge-sheet containing the following allegation:

14

"It is revealed that you had absented yourself unauthorisedly from time to time during your entire service on 30 occasions. Though these absences have been regularised by the respective competent authorities after considering the merit of each case. Yet these absences clearly indicate that you Const. Kishar Pal No.738/ND to be a habitual absentee and incorrigible".

4. The inquiry officer, after having proceeded with the case as per rules found the ex-constable responsible for wilful absence on different occasions. Charges were proved and copy of the findings was sent to the applicant on 9.5.91. Appeal of the applicant was rejected on 17.12.91 and this was communicated by the order dated 26.12.91. Revision petition of the applicant herein filed on 4.10.95 was rejected on 22.3.96. Respondents have submitted that the case is highly barred by limitation since the punishment was awarded and his appeal was rejected by the Addl. Commissioner of Police, New Delhi on 17.12.91 vide Annexure A-I.

5. We find that the applicant had earlier approached this Tribunal through OA 1570/93 decided on 30.7.93. The order of the Tribunal reads as under:

"For this limited purpose, we do not consider it necessary to issue notice to the respondents nor to go into the question of belated filing of the OA. We feel that it will be in the interest of justice to issue a direction to the appellate authority to dispose of the appeal of the petitioner in accordance with law with utmost expedition and preferably within three months from the date of communication of this order. Ordered accordingly."

6. From the pleadings and submissions made by the applicant in person as well as the learned counsel for respondents, it is evident that the applicant has approached this Tribunal rearguing the same issue once

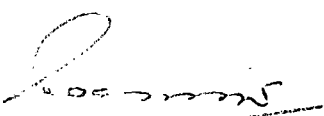
1/3

15

again though his case was last decided on 30.7.93. As per applicant's own statement, he was apprised by the counsel that his petition (OA 1570/93) was no more pending and the same has been already disposed and the applicant was given an order regarding this fact. The delay was on account of his counsel having not informed him of the developments in time. Applicant would submit that the delay in processing his case and filing of the present application is neither intentional nor malafide but due to unavoidable circumstances and lapses on the part of his counsel.

7. Faced with the above position, the applicant has also filed an MA for condonation of delay. We find that there are no valid grounds, much less convincing ones, for condonation of the delay. In a recent judgement of the Hon'ble Supreme Court, it has been decided that the court has to record in writing that the explanation offered for delay was reasonable and satisfactory. This is a pre-requisite for condonation of delay (see T.K. Ramachandran Vs. State of Kerala & Anr. JT 1997 (8) SC 189). This requirement is seriously lacking in both the OA as well as MA for condonation of delays.

8. We have gone through the records carefully and are not convinced as regards the reasons advanced for condonation of delay. The OA is, therefore, dismissed on grounds of limitation and also principles of resjudicata. No costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

/gtv/