

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O. A. No. 773/97

New Delhi, this the 19th day of August, 1998

HON'BLE SHRI N. SAHU, MEMBER(A)
HON'BLE DR. A. VEDAVALLI, MEMBER(J)

Constable Sudhir Kumar No. 1783/D.A.P.
S/o Shri Ram Saran, aged about 36 years,
presently posted in IIInd Bn. DAP,
R/o 37-A, Kundar Nagar, Gali No. 2,
Laxmi Nagar, Delhi-92

.....Applicant

(By Advocate Shri Shankar Raju)

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Commissioner of Police,
Police Head Quarters, I.P.Estate,
New Delhi.
3. Sr. Addl. Commissioner of Police,
Armed Police & Training,
P.H.Q., I.P.Estate,
New Delhi.
4. Deputy Commissioner of Police,
IIInd Bn. D.A.P., New Police Lines,
K.W. Camp,
Delhi.

(By Advocate Sh. Ajesh Luthra, proxy for Ms. Jyotsana Kaushik).

O R D E R (ORAL)

BY HON'BLE SHRI N. SAHU, MEMBER(A)

Heard both the counsel.

2. This O.A. is filed against the order No. 1495-99/ASIP-2nd Bn. DAP dated 14.6.95 issued by respondent no. 4 treating the absence of the applicant for 31 days as unauthorised absence and break in service under FR 17(i). The applicant thereafter filed an appeal-cum-representation which was disposed of by an order dated 14.11.95 by respondent no. 3 rejecting the same. He later on filed a revision petition which has also been

rejected by order dated 25.4.96.

(a)

3. The claim of the applicant in this O.A. is that all the three authorities whose orders are impugned have not dealt with the important evidence tendered by him before the authorities. He was initially on E.L. from 15.11.94 to 30.11.94. On 27.11.94 on the ground that his wife had slipped and there was a an injury calling for immediate operation and treatment, he sent an application on 28.11.94 to the department seeking extension of leave alongwith a medical certificate in evidence of his wife's illness. The communication was sent by Registered A/D bearing no.B1769 dated 28.11.94 and posted at Krishna Nagar Post Office. The applicant had requested for 25 days leave. The Deputy Commissioner of Police admits the receipt filed by the applicant in proof of extension of leave but he questions the genuineness of the same on the ground that it did not bear any seal or number of Post Office. He also mentions an earlier instance of absence and passes the impugned order.

4. The applicant again makes a petition before the Senior Post Master,Krishna Nagar and secures a certificate which is at annexure A-8 to the O.A. The Post Master certified that the letter was duly booked from his Post Office on 28.11.94 and the receipt was certified as genuine as it was issued by a computer machine. Shri Raju explains that computer receipts do not bear any seal, date or signature. Under these circumstances, it is contended by the 1d. counsel for applicant that the respondents have

passed the order without applying their mind to the petition submitted by the applicant explaining the reasons for extension of leave.

5. Ld. counsel for respondents Shri Ajesh Luthra states that the impugned order was dated 14.6.95 and the appeal was disposed of on 14.11.95. The revision petition was disposed of by an order dated 25.4.96. There is no provision for filing any revision petition. Limitation for filing the O.A. started from 14.11.95. We do not accept this plea. The applicant filed the revision petition which has been accepted by the competent authority who examined and adjudicated the same and passed an order after applying his mind. The applicant very correctly and rightly waited for the order and that is what is expected from a Govt. servant. We accordingly hold that the revision petition disposed of by an order of competent authority constitutes a proper cause of action from which date the limitation should be reckoned.

6. As the O.A. has been filed within time from the date of the Revision order, we do not accept the claim of Sh. Ajesh Luthra that the O.A. is barred by limitation. We also accept the contention of the Applicant's counsel that the competent authority who passed the order treating the absence as break in service did not examine the evidence filed by the applicant and did not examine the genuineness of the plea about his wife's treatment. Both these authorities could have themselves verified the receipt from the Post Office if they had any doubt in their mind about

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the genuineness of the same. They did not do so and they had on mere surmises refused to admit what was otherwise a genuine application for extension of leave.

7. Under the circumstances, we would set aside the order and remand this case back to respondent no.4 who is directed to re-examine the application for extension of leave on merits and pass appropriate speaking orders within a period of 6 weeks from the date of receipt of a copy of this order.

8. O.A. is disposed of as above. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

N. Sahu
(N. Sahu)
Member (A)

/mishra/