

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA 350/1994

(A)

New Delhi, this 16th day of November, 1994

Shri N.V.Krishnan, Vice-Chairman(A)
Shri C.J. Roy, Member (J)

Shri Kishan Chand
s/o Shri Bhim Singh
Vill. & PO Rohna
Dt. Sonepet, Haryana

.. Applicant

By Shri D.B. Goswami, Advocate

Versus

1. Commissioner of Police
Police Hqrs., IP Estate
New Delhi

2. Shri S. Ramakrishnan
Addl. Commissioner of Police
New Delhi Range, N.Delhi

3. Shri D.K. Bhatt
Addl. Dy. Commissioner of Police
New Delhi Dt., New Delhi .. Respondents

By Shri Anoop Bagai, Advocate

O R D E R (oral)

(By Hon'ble Shri N.V.Krishnan, VC(A)

The applicant is a former Head Constable(Driver) under the Delhi Police. He was proceeded against in a disciplinary proceeding and was dismissed from service dated 9.12.92 by the order of the disciplinary authority. He filed an appeal on 12.5.93 (Annexure C), which was admittedly delayed, with a request for condonation of delay due to his being unable to appeal in time due to his illness. The appeal has been disposed of by the appellate authority by the order dated 29.6.93 stating that the appeal is time barred and the same is rejected. The DA has been filed in these circumstances.

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2. The main grievance is that the appellate authority has not considered the appeal on merits on the only ground that it is barred by limitation. The applicant had requested for condonation of delay which has not been looked into. (5)

3. The respondents have filed their reply stating that the appeal has been rightly rejected.

4. We have heard the counsel for the parties today. It is quite clear from the appellate order that the appellate authority has not considered on merits the prayer made by the applicant for condonation of delay in filing his appeal on the ground of his illness. The applicant has stated the reasons for not filing the appeal in time at the end of the appeal memo under the head "Prayer" as follows:

"The applicant even after dismissal from the service had been ill and he was advised medical rest by the doctor of Ayurvedic Dispensary Kakrola vide his OPD Chit No.17 dated 1.4.1993 upto this day and he is still under the treatment. Being unemployed and under the treatment he could not submit his appeal earlier due to the illness and financial difficulties hence it is prayed that the delay in submitting the appeal may kindly be condoned and my appeal may kindly be considered."

This has not been considered by the appellate authority.

5. In the circumstances, we are of the view that the order of the appellate authority should be set aside and the matter remitted to him back for further consideration of the appeal.

6. We, therefore, dispose of this OA by quashing the order dated 29.6.93 (Annexure A) of the appellate authority and we direct him to first consider on merits the prayer made in the appeal (Annexure C) for condonation of delay in filing the appeal on the ground of his illness, and thereafter deal with the appeal on merit, if needed. No costs.

[Signature]
16.11.94

urby
(C.J. Roy)
Member (J)

(N.V. Krishnan)
Vice-Chairman (A)

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