

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH:NEW DELHI

....

O.A.No.1014 of 1994

(3)

Dated New Delhi, this the 26th day of July, 1994

Hon'ble Shri J. P. Sharma, Member(J)

Hon'ble Shri B. K. Singh, Member(A)

Shri Zahir Uddin  
R/o Vill. & P.O. Nangal Kalan  
P.S. Rai, Dist. Sonipat  
HARYANA

... Applicant

By Advocate: Shri A. S. Grewal

VERSUS

1. Commissioner of Police Delhi  
Delhi Police Headquarters  
M.S.O. Building, I.P. Estate  
NEW DELHI

2. Additional Commissioner of  
Police(Armed Police)  
Delhi Police Headquarters  
M.S.O. Building, I.P. Estate  
NEW DELHI

3. Deputy Commissioner of Police  
3rd Bn. D.A.P. New Police Lines  
Kingsway Camp  
DELHI

... Respondents

By Advocate: None

O R D E R  
(Oral)

Shri J. P. Sharma, M(J)

The applicant, Shri Zahir Uddin has served in Delhi Police and in an Departmental Enquiry under Section 21 of the Delhi Police Act, 1978 read with Delhi Police (Punishment & Appeal) Rules, 1980, he was served with a summary of allegations that he absented himself unauthorisedly without any prior permission as many as 23 occasions as a result of which, he

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committed breach of Rule 3(i)(iii) of CCS(Conduct) Rules, 1964. He did not participate in the Departmental Enquiry and the Deputy Commissioner of Police vide order dated 8th October, 1990 on ground of being his unauthorised absence for thirty-two days, he was dismissed from service. On his appeal, the order of the Deputy Commissioner of Police was upheld vide order dated 1.4.91.

2. The applicant has filed this application in May, 1994 stating that the application is barred by two years and fifteen days. He has explained for this delay in an application for condonation of delay, MA dated 17.5.94. The only ground taken in this MA in paragraph-3 by the applicant is that within one year he was mentally upset and because of other reasons he could not assail the impugned orders within the statutory period of limitation.

3. We have heard Shri A. S. Grewal, counsel for the applicant at length and also perused the medical certificates filed on different dates of one of the private practitioner Dr V. D. Atreya, Specialist in Bone, Joints and Polio, an resident of Sedor Bazar, District, Muzaffarpur (U.P.). The applicant was diagnosed as a case of Sciatica and was advised for for rest for eight weeks with effect from 2.6.92.

On 30.7.92, he was again issued a certificate of twelve weeks' rest on case of Acute PID. On 8.10.92 he was again given a certificate of twelve weeks' rest with effect from 28.10.92 for the same illness which was repeated also in January and April, 1993. However, we find on record a certificate annexed with the MA marked as A-9(vi) where no date of issue of the medical certificate is given. The applicant was advised for twenty weeks' rest from 19.7.93. Same is the feature regarding another medical certificate marked as A-9(vii) where no date of issue of the certificate has been given. Normally a statement of illness of a person supported by medical certificate needs no further proof. Illness is personal to a person and an expert is to verify the same. However, this certificate issued by the expert or medical officer should be of convincing nature and *prima facie* should appear genuine. We do not want to comment on all these certificates in the absence of author of these certificates but primarily some of the certificates issued by the medical officer who is an expert of bones and joints, do not create an impression that the applicant was actually confined in such illness which deprived him to assail the impugned orders within time. The applicant has to make out a sufficient and reasonable cause not beyond his

control to get condonation of delay. We are aware that a meritorious case should not be thrown out of technical ground of limitation, but at the same time, one who seeks equity must do equity. When the applicant has not come with clean hands and could not convince of regarding illness alleged to be mentally deranged in the application and something else in the supporting evidence of medical officer, in our view, does not make out a case for condonation of delay. We are also aware of the fact that the punishment of dismissal from service has been passed in this case. It will also come in the way of getting another employment in the Government service (State or Central), but we cannot help and the applicant is himself to blame. The stand taken by the applicant is totally not justified particularly regarding the condonation of delay.

4. Thus, we find that the application is barred by time. It does not make out a prima facie case and the same is dismissed under sub section (3) of Section 19 of Administrative Tribunal Act, 1985.

No costs.

(B. K. Singh)  
Member (A)

J. P. Sharma  
Member (J)

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