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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri S.R.Adige, Vice-Chairman(A)
Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.2095/2000

New Delhi, this the 3rd day of January, 2002

Shri Hari Singh
s/o Sh. Sarup Singh
Ex. Head Const. Delhi Police
r/o VPO Samchana, Distt. Rohtak-k
Haryana. ... Applicant

(By Advocate: Shri Umesh Singh)

Vs. ,

1. Commissioner of Police
Delhi Police
Police Head Quarter
M.S.O.Building
New Delhi.

2. Principal (Police Training School)
Jharoda Kalan
Delhi.

... Respondents

(By Advocate: Ms. Neelam Singh)

O R D E R (Oral)

By S.R.Adige, Vice-Chairman(A):

Applicant impugns the disciplinary authority's order dated 25.10.1994 (Annexure-A) dismissing him from service and the appellate authority's order dated 14.2.1997 rejecting the appeal. Alternatively, it is prayed that the respondents be directed to reconsider the order of dismissal and to convert the same into a penalty of compulsory retirement, and to pay all the consequential benefits to the applicant.

2. Shortly stated, upon being involved/arrested in criminal case FIR No.210/88 dated 23.10.1988 under section 302/307/323/341/148/149 IPC and 25/27/54/59 Arms Act, the applicant was placed under suspension w.e.f. 30.10.1988. He was eventually convicted for life imprisonment with fine

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by the Court of Additional Sessions Judge, Rohtak (Haryana) vide Judgement in session case No.3, Session Trial No.12 of 1989. The applicant's appeal in the Punjab and Haryana High Court was dismissed on 28.7.1993. Accordingly, as per the provisions contained in Rule 11(1) Delhi Police (Punishment & Appeal) Rules, 1980, the applicant was dismissed from service w.e.f. 28.7.1993 vide impugned order dated 25.10.1994.

3. The applicant filed an appeal dated 28.12.1994, and in pursuance of the CAT's order dated 14.1.1997 in RA No.207/96 in OA No.2138/95 and MA 2407/96, the appellate authority vide order dated 14.2.1997 rejected the appeal, holding that applicant had been rightly dismissed from service by the disciplinary authority. Inter-alia, he also noted that the appeal filed by applicant was not an authenticated one, inasmuch as it did not bear his signature, and could not therefore be acted upon by the superior officers. The appellate authority observed that only a mercy petition lay with the Senior Additional Commissioner of Police which could be accepted or rejected after considering the grounds contained therein, and as no appeal of mercy has been made, the same could not be accepted.

4. Thereafter the applicant filed a mercy petition and the same has been rejected by an order dated 8.6.2001.



5. During the course of hearing, applicant's counsel has relied upon an order of the Hon'ble Supreme Court in Supreme Court Service Rulings (Vol.7) page 411, Hussaini Vs. Hon'ble The Chief Justice of High Court of Judicature at Allahabad and Others. In that case, the misconduct with which Shri Hussaini was charged has not been specifically mentioned, but he being a low paid Safai Jamadar, the Hon'ble Supreme Court, without in any manner detracting from the view taken by the High Court in regard to the Hussaini's misconduct, held that there was some scope for taking a little lenient view in the matter of punishment accorded to the Hussaini, and the only course open to us to convert the order of dismissal into one of compulsory retirement.

6. In the present case, before us, however, we note that the applicant, who was a Government servant and belonged to a uniformed force, entrusted with the maintenance of law and order, has been convicted of murder and the aforesaid conviction has been upheld right up to the Punjab and Haryana High Court. Clearly the circumstances which relate to the case of Shri Hussaini cited by the applicant's counsel, would not be applicable in the present case.

7. Under the above circumstances, we find no infirmity in the impugned orders and we are unable to interfere in the matter. The OA is dismissed.

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8. Before we part with the case, the applicant's counsel contends that applicant's GPF and Subsistence Allowance were released by the respondents after a delay of around one and half year and he prays for interest on the delayed payments. Applicant is given liberty to take up this matter separately with the respondents for consideration by them ~~may consider~~ ⁱⁿ ~~the~~ ⁱⁿ accordance with rules and instructions on the subject. No costs.

S. Raju
(SHANKER RAJU)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
VICE-CHAIRMAN(A)

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/RAO/

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