

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2182/2000

New Delhi, this the 4th day of January, 2002.

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Ishwanti W/O late Ramkumar
(Ex.Constable) V.P.O.Ladrawn,
Distt. Jhajjar, Haryana.
2. Sandeep Kumar S/O late Ram Kumar
3. Rajiv Kumar S/O late Ram Kumar
4. Sunil Kumar S/O late Ram Kumar (16 years)
5. Anil Kumar S/O late Ram Kumar (14 years)

Applicants 4 & 5 thr. Applicant No.1.

All R/O VPO Ladrawn,
Distt. Jhajjar, Haryana.

... Applicants

(By Shri M.K.Bhardwaj, Advocate)

-vs.-

1. Govt. of NCT of Delhi through
Chief Secretary,
5, Sham Nath Marg, Delhi.
2. Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi.
3. Additional Commissioner of Police
Operations, Delhi.
4. Deputy Commissioner of Police,
Police Control Room, Delhi.
5. Enquiry Officer/Inspector, PCR,
Third Floor, MSO Building,
Delhi.

... Respondents

(By Shri Ajay Gupta, Advocate)

O R D E R (ORAL)

HON'BLE SHRI SHANKER RAJU, MEMBER (J) :

Deceased Ram Kumar, a Constable, had been proceeded against on the charges of remaining unauthorisedly and wilfully absent from duty, holding an ex parte enquiry after affording every opportunity to him which he failed to avail. The enquiry officer held him guilty of the

charge. Taking into consideration all his pleas, the disciplinary authority issued a show cause notice on 30.1.1987. Despite receipt of the show cause notice on 4.2.1987, the said Ram Kumar did not choose to reply to the same. The disciplinary authority, ex parte, imposed the punishment of dismissal from service which had been appealed against, and the appellate authority rejected the appeal taking into consideration all his contentions, by an order dated 23.7.1988. The aforesaid orders are assailed by the applicants in the present O.A.

2. The learned counsel for applicants states that though he has not filed any M.A. for condonation of delay, yet the delay is well explained as the deceased Ram Kumar remained admitted in a government hospital from 1987 till he died on 2.7.2000. Present O.A. is filed by the legal heirs of deceased Ram Kumar. It is also stated that the deceased had given information regarding his illness to the competent authority and also produced medical certificates which had not been taken into consideration.

3. It is lastly contended that a compassionate view may be taken and the widow of Ram Kumar, i.e., applicant No.1, be considered for being accorded compassionate appointment for which she may be given liberty to approach the respondent authorities.

4. We have considered the rival contentions. At the outset, present O.A. is liable to be dismissed on the limitation ground. As provided under Section 21 of the Administrative Tribunals Act, 1985, an O.A. is to be filed within one year from the date on which the final order has been made. The appeal filed by deceased Ram Kumar was rejected by an order dated 23.7.1988; the O.A. should have been filed before 23.7.1989. Applicants

have filed the present O.A. on 17.10.2000, after a delay of more than 13 years, without filing an M.A. for condonation of delay supported by medical reports to show continuous hospitalization of Ram Kumar. The respondents in their reply have categorically taken a preliminary objection to the effect that the O.A. is hopelessly barred by limitation and is to be rejected at the outset.

5. In Ex. Capt. Harish Uppal v. Union of India & Ors., JT 1994 (3) SC 126, the Apex Court has held that parties should pursue their rights and remedies promptly and not sleep over their rights. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of the Constitution. Besides, in S.S.Rathore v. State of M.P., AIR 1990 SC 10, a Constitutional Bench of the Apex Court held that the limitation provided under Section 21 of the Administrative Tribunals Act is one year from the date of the final order. Having failed to approach the Tribunal within the prescribed period of limitation, the applicants have lost their rights and remedies as well.

6. Present O.A. filed by the legal heirs of the deceased, is not maintainable in the eyes of law. The same is accordingly dismissed without any order as to costs. It will, however, be open to the widow of deceased Ram Kumar to pursue her grievance ⁱⁿ for accord of compassionate appointment with the respondents, in accordance with law.

S. Raju
(Shanker Raju)
Member (J)

V. K. Majotra
(V. K. Majotra)
Member (A)

/as/