

13

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O. A. NO. 694/89

New Delhi this the 21st day of March, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Sube Singh S/O Dhoom Singh,
Sub Inspector No. 1048/D,
Delhi Police,
C.I.D. Special Branch,
Police Hqrs., New Delhi.
R/O Vill. Bussi,
P.O. Khekra,
Distt. Meerut (U.P.)

... Applicant

By Advocate Shri B. S. Charya

Versus

1. Commissioner of Police,
Delhi Police,
M.S.O. Building,
I.P. Estate, New Delhi.

2. Union of India,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi,
through its Secretary.

3. The Dy. Commissioner of Police,
Special Branch,
Delhi Police,
M.S.O. Building,
I.P. Estate, New Delhi. ... Respondents

None present for the Respondents

O R D E R (C.R.L)

Hon'ble Mr. Justice V. S. Malimath —

When the petitioner was serving as a Sub Inspector of Police, a disciplinary inquiry was held against him on the allegation that he submitted dishonest report in regard to one Gurmail Singh who was an applicant for grant of a passport. The petitioner approached this Tribunal before any final order was passed against him. But during the pendency of these proceedings, W the disciplinary authority passed the impugned order

(A)

dated 15.5.1989 (Annexure P-14) holding the petitioner guilty of the charge levelled against him and imposing a penalty of forfeiture of three years' approved service permanently. The order also says that the petitioner is entitled to prefer an appeal to the Addl. Commissioner of Police, C.I.D. within thirty days from the date of receipt of the order. The petitioner challenged the said order passed during the pendency of these proceedings.

2. We are inclined to take the view that it would not be in the interest of justice to interfere at this stage with the penalty imposed. The petitioner has a remedy by way of appeal which he has not invoked on the ground of pendency of these proceedings. In our opinion, it would advance the cause of justice if we relegate the petitioner to the appeal for the reason that the appellate authority has the power not only to examine the legality of the inquiry made but also to interfere with the quantum of punishment. We would not be in a position to interfere with the penalty imposed. Hence, it would be in the interest of the petitioner that he avails the remedy by way of appeal. The petitioner was bonafide pursuing his remedy before the Tribunal in these proceedings which is the reason for his not preferring an appeal. Hence, it would not be just and proper to deny the right of appeal on the ground that the period of limitation has expired in the meanwhile. In this background, we consider it just and proper to dispose of this application with the following directions :-

1. If the petitioner prefers an appeal against the order of the Deputy Commissioner of Police, Special Branch (Annex. P-14) imposing the penalty of forfeiture of three years of approved service permanently, within a period of thirty days from this date, the Addl. Commissioner of Police, CID (appellate authority) shall entertain the same without raising any objection of bar of limitation and dispose of the same on merits by a speaking order as expeditiously as possible.
2. If in the event of the petitioner's grievance still subsisting after the appellate order is passed, he is entitled to avail of such other remedies as are provided in law to him.
3. No costs.

Adige
(S. R. Adige)
Member (A)

Malimath
(V. S. Malimath)
Chairman

/as/