

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.1411/88

Date of decision: 07.12.1992.

Shri Richpal Singh ... Petitioner

Versus

Union of India through
the Secretary, Ministry
of Home Affairs, New
Delhi & Others ... Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner Shri Raju, proxy counsel for
Shri J.P. Verghese, Counsel
for the petitioner.

For the respondents Shri P.K. Behl, Counsel.

Judgement (Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner was an Assistant Sub Inspector of Police in the Delhi Police Administration. A disciplinary enquiry was held against him in respect of certain charges levelled against him on 3.7.1980. In pursuance of a regular enquiry held he came to be dismissed from service on 21.10.1980. The petitioner preferred an appeal against the said decision to the appellate authority viz. the Additional Commissioner of Police. The appellate authority accepted the appeal and modified the punishment imposed by reducing the same to the reduction in rank of Head Constable. The appellate order was made on 19.3.1981. On 15.5.1981 the petitioner preferred an appeal against the order reducing him to the

25

the rank of Head Constable, which was not maintainable. The petitioner filed a revision petition before the Commissioner of Police which is, we are told, was dismissed on 23.11.1981 as per Annexure A-8 on the ground that it is not maintainable. It is in this background that the petitioner has approached the Tribunal for relief in the present Application, filed under Section 19 of the Administrative Tribunals Act, 1985 on 28.7.1988.

2. The prayer of the petitioner, as sought in the Original Application is for quashing of the impugned orders dated 21.10.1980 and 3.4.1981. He has also prayed for a direction to dispose of the appeal and the revision petition in accordance with the law. He has prayed for a direction to pay all arrears and consequential benefits, including seniority, increments etc. There is also a prayer to restrain the respondents from appointing any of the junior of the petitioner to the post of Sub Inspector before considering the claim of the petitioner. He also filed Miscellaneous Petition No.271/89 for condonation of delay. Subsequently, he sought amendment of the O.A. by Miscellaneous Petition No.343/89. He has taken the ground that the said notification dated 21.8.1980 is void, as offending Sections 21, 22, 147 and 148 of the Delhi Police Act, 1978 and that Rules 14 and 15 of the Delhi Police (Punishment & Appeal) Rules, 1980 are

ultra vires of the provisions of the Act. All these are additional grounds taken in aid of the principal relief which he has claimed in the petition challenging the impugned orders, imposing penalty in the disciplinary proceedings.

3. When the application for condonation of delay as also the application for amendment of the O.A. were taken up for consideration, it was argued that the petition is clearly barred by time. But, then in view of the additional contention raised by the petitioner, challenging the vires of certain statutory provisions, it was observed in the order made by the Tribunal on 9.8.1989 that the bar of limitation would not arise in regard to challenges to the rules. It is not possible to understand the said order, as having the effect of condoning the delay in challenging the impugned orders, imposing punishment. At any rate, it is clear that no finding has been recorded in regard to jurisdiction of the Tribunal to entertain the application in question. Assuming for the sake of arguments that the said order passed during the pendency of these proceedings is to be understood as an order condoning the delay in filing the Original Application, it does not preclude us now from reviewing the same after giving due opportunity to both the counsel to make their submissions and to correct the mistake, if one was committed earlier. We have heard both the counsel on this question.

4. The question that really arises is not of limitation but of jurisdiction. In regard to matters in respect of which cause of action had arisen three years before the Tribunal was constituted, it has no jurisdiction to entertain the same. When the Tribunal has no jurisdiction the question of condonation of delay does not arise. This question stands concluded by the decision of the Tribunal in ATR 1986 (1) CAT 203 between V.K. Mehta Vs. The Secretary, Ministry of Information and Broadcasting. It is held that:-

"The Act does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1.11.1982. In such a case there is no question of condoning the delay in filing the petition but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1.11.1982. The limited power that is vested to condone the delay in filing the application within the period prescribed is under Section 21 provided the grievance is in respect of an order made within three years of the constitution of the Tribunal. The Tribunal has jurisdiction under sub-section (2) of Section 21 to entertain an application in respect of 'any order' made between 1.11.1982 and 1.11.1985.

Where, therefore, the application relates to a grievance arising out of an order dated 22.5.1981 a date more than three years immediately preceding the constitution of the Tribunal shall have no jurisdiction, power or authority to entertain the same, though it is filed within six months of its constitution as contemplated by sub-section 3 of Section 21 of the Act."

5. It is, therefore, clear that the cause of action in this case having arisen on 19.3.1981 and at any rate on 23.11.1981 when the revision application was rejected. The Tribunal has no jurisdiction to entertain this application, cause of action having arisen before 1.11.1982, Though a notification and certain rules have been challenged, it is really for the purpose of securing reliefs against the impugned orders passed before 1.11.1982. Hence, even on

the ground that the notification or the impugned rules are void for any reason, the petitioner is not entitled to claim any relief by approaching the Tribunal with an Application under Section 19 of the Administrative Tribunals Act, 1985, the cause of action having arisen beyond a period of 3 years from the date of coming into force of the Act on 1.11.1985. We have, therefore, no hesitation in holding that we have no jurisdiction to entertain the present Application. Hence this Original Application fails and is dismissed. No costs.

I.K. Rasgutra
(I.K. RASGUTRA)
MEMBER (A)

V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN

San.
071292