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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * * *

O.A. NO.18/1988

DATE OF DECISION 30-7-91

SHRI ONKAR NATH

.....APPLICANT

VS.

UNION OF INDIA & OTHERS

.....RESPONDENTS

CORAM

SHRI U.C. SRIVASTAVA, HON'BLE VICE-CHAIRMAN (J)

SHRI I.P. GUPTA, HON'BLE MEMBER (A)

FOR THE APPLICANT

.....SHRI S.C. LUTHRA

FOR THE RESPONDENTS

.....SHRI M.M. SUDAN

1. Whether Reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not?

J U D G E M E N T

(DELIVERED BY SHRI I.P. GUPTA, HON'BLE MEMBER (A))

The applicant was appointed as a Constable on 11.11.1950 with his date of birth as 1.1.1931 and was to retire on 31.1.1989. He was later promoted as Head Constable and A.S.I.

2. By an order dated 21.11.1981 sent by the Deputy Commissioner of Police, North District, Delhi, the applicant who had earlier been suspended for gross misconduct and negligence on 19.10.1981, was awarded the penalty of

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forfeiture of one year service, thereby causing reduction in his pay to Rs.380 from Rs.390. The applicant was subsequently retired compulsorily by an order dated 18.9.1985 signed by the Additional Commissioner of Police (Range), Delhi where it was mentioned that in exercise of the powers conferred by Rule 48(i) of the Central Civil Services (Pension) Rules, 1972, the Additional C.P.(Range), Delhi (appropriate authority) hereby retires the applicant with immediate effect, he having already completed 30 years of service/30 years of service qualifying for pension on 11.11.1980.

2. The applicant has sought for the following reliefs on the grounds indicated below :-

- (i) To treat the impugned order dated 18.9.1985 retiring the applicant as illegal in view of the fact that it was issued by the appointing authority on the recommendation of screening committee headed by the Commissioner of Police and the screening committee being at a level higher than the authority authorised to retire a person, the independent judgement of the disciplinary authority could not be properly exercised.
- (ii) To treat the impugned order dated 21.11.1981 jointly passed alongwith the applicant by Shri R.Tiwari, Deputy Commissioner of Police, North District, Delhi as illegal ⁱⁿ ~~In~~ _{del}

that the punishment was passed by an authority lower than the appointing authority, namely, the Additional Commissioner of Police.

(iii) The applicant may be given all consequential benefits, interest and privileges including his pay, promotion, confirmation, seniority, pension, gratuity, etc., and payment of his dues together with interest at the rate of 12% per annum, treating the applicant as in continuous service as if nothing had happened to him.

3. In the counter filed on behalf of the respondents, it has been mentioned that the applicant was awarded 10 censures and one major punishment during his service. On completion of 30 years of service, his case was sent to the screening committee alongwith other police officers for further retention. The screening committee recommended compulsory retirement of the applicant under Rule 48(i)(b) of C.C.S.(Pension) Rules, 1972 vide order passed on 18.9.1985. The learned counsel for the respondents have strenuously urged that the application is barred by limitation.

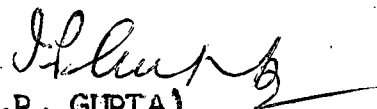
4. The points urged by the applicant have been fully dealt with in a similar case of Shri Hoshiar Singh and Surinder Nath Vs. U.O.I. (T.A. No.1242/85 and T.A. NO.1248/85). In the aforesaid reference to the Central Administrative Tribunal, similar issues were raised ^{when} the petitioners had

been given the penalty of forfeiture of one year service and on subsequent occasion compulsory retirement. As the impugned order of punishment of forfeiture of one year service was passed by an authority lower than that of the appointing authority and as the orders for compulsory retirement were given on the recommendation of the screening committee which was constituted at a level higher than that of the appointing authority, thereby leaving little discretion to the appointing authority to exercise his own mind, the Tribunal set aside the impugned orders of compulsory retirement and also of punishment of forfeiture of one year service.

5. Regarding the case being barred by limitation as argued by the learned counsel for the respondents, it may be mentioned that the applicant has been sending reminders periodically. He also waited for the orders of the Tribunal in similar cases filed by Shri Hoshiar Singh and Surinder Nath. For an employee of the level of the applicant, who has been pursuing the case closely ever since the orders affecting him were passed and waiting in expectation of a judgement in a similar case, we may not go into the technical points of the rule of limitation more so when his application was admitted by

the Tribunal in 1988 and has been pending ever since.

6. In the aforesaid conspectus, the impugned orders of compulsory retirement dated 18.9.1985 and the order of punishment for forfeiture of one year's service dated 21.11.1981 are quashed with the direction that the petitioners should be deemed to have been reinstated in service with effect from the date of their compulsory retirement with all consequential benefits. We order accordingly. There is no order as to costs.


(I.P. GUPTA)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN (J)