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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1645 of 1988

12th day of November, 1993

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. B.K. Singh, Member (A)

Chander Bhan,
S/o Shri Shyam Lal Sharma,
H-12, Police Station, Lajpat Nagar,
New Delhi.

..... Applicant

By Advocate Shri Umesh Mishra

Versus

1. Delhi Administration, through
Administrator,
Delhi

2. Additional Commissioner of Police,
Police Head Quarters, I.P. Estate,
New Delhi.

3. Deputy Commissioner of Police
(Communication)
Old Police Line,
Delhi.

..... Respondents.

By Advocate: None.

ORDER

Hon'ble Mr. B.K. Singh, Member (A)

This O.A. No. 1645/88, Chandra Bhan Vs. Delhi Administration & Ors. has been filed against order dated 1.9.87 rejecting the representation of the applicant against the order of punishment and rejection of his appeal. Copies of the impugned orders are at annexures 'A', 'B', 'C', 'D' and 'E' of the paper-book. After disciplinary proceedings, the applicant was punished with forfeiture of 5 years service which on appeal was reduced to one year only. Revisional order confirmed this.

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2. The applicant joined as Constable on 27.11.1961 and was promoted as Head Constable on 29.9.72. He is working as Head Constable in Old Delhi Police Line. On 14.1.78 at about 2.15 p.m. Constable Lal Mohan Rai, No.787/SD complained to S.H.O, Defence Colony that Chander Bhan No. 300/C&T quarreled and pointed a revolver with the intention of murdering him. During enquiry it was proved that he grappled with Lal Mohan Rai and threatened to kill him with his revolver. Though this is an offence under Indian Arms Act, a lenient view was taken and no case was registered against him and only a departmental action was recommended. During the course of enquiry it was revealed that the Head Constable Chander Bhan had purchased a .32 revolver from one Shyam Dutt of village Mandoli for Rs.5800/- and he neither sought prior permission from the Head of Office nor did he inform him. Thus he contravened the provisions of sub-rule 18(3) of CCS (Conduct) Rules 1964.

3. A departmental enquiry with Shri J.N. Sharma as Inquiry Officer was conducted against him and he was held guilty of the charge. Agreeing with the E.O., he was censured vide Order No. 29022-28/HAP-DCP/C&T dated 11.9.78. Appeal was rejected vide Order No. 6598/80/ dated 1.12.78. The Revisional Authority while setting aside the order No. 7781-83/OR-I dated 17.5.79, observed that censure



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was not commensurate with the gravity of the offence and he ordered de novo enquiry from initial stage by serving a fresh summary of allegations. This departmental enquiry was entrusted to Shri R.P. Mishra, the then DCP/Lines. The Inquiry Officer submitted his findings on 8.1.80 in which he held the applicant guilty of pointing his revolver after a quarrel with Lal Mohan Rai threatening to kill him and also entering into purchase & transaction of a .32 revolver from Shyam Dutt without obtaining prior permission and without sending any intimation to Head of Office as required under rules, i.e. 18(3) of CCS(Conduct) Rules of 1964. The D.A. agreed with the findings and awarded punishment of forfeiture of 5 years approved service reducing his pay from Rs.326/- per month to Rs.296/- per month vide Office Order No.10683-91/HAP-DC/C&T dated 18.4.80. The applicant preferred an appeal against the order of DCP/C&T to the Additional Commissioner of Police (Range) and this was duly considered and the punishment was reduced from 5 years' forfeiture of approved service to one year's forfeiture of approved service reducing his pay from 326/- to 320/- per month vide PHQ Order No. 1789-90/P.Sec. ND (Range) dated 25.10.80. A revision petition filed was rejected by Police Commissioner vide order No.4577-78 dated 2.4.1981.



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4. Aggrieved by this order of the appellate authority forfeiting one year's approved service and rejection of his revisional petition, he has come up for quashing the same and granting him all consequential benefits.

5. A notice was issued to the respondents to file their reply. They have ^{contested} the application. We have heard the learned counsel for the applicant, Shri Umesh Mishra and perused the records of the case. None appeared for the respondents. The main thrust of the arguments of the learned counsel for the applicant was that the applicant is governed by the Delhi Police (Punishment and Appeal) Rules 1980. This contention is not tenable because CCS Rules were made applicable when the Punjab Police Rules were repealed and Delhi Police Rules had not been notified and as such CCS (Conduct) Rules 1964 were applied ^{to} this case. During the period under report every civil servant, Class-I and Class-II was required to inform the Department concerned of all transactions and above Rs. 1000/- and in case of Group 'C' & 'D' employees permission was a must giving full details of the transactions. If the Head Constable, Chander Bhan, was drawing less than Rs. 500/- per month, it was imperative for him to have furnished the necessary details regarding



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purchase transaction to the Head of Office. Since the revolver cost him Rs.5800/-, he was required to give all information of purchase of above Rs.1000/- and was also required to seek prior permission of Head of Office. Only in case of Class-II and Class-I officers the information has to be given and in other cases permission is a must. In case of the applicant if his pay was only and Rs.500/-/he was buying a revolver for Rs.5800/- and as such he should have not only obtained the permission but should have also disclosed the source of income also. So the second charge has rightly been approved against him.

6. As regards the first charge of quarrel and pointing revolver with intent of killing Lal Mohan Rai, it is a clear offence under Indian Arms Act. The culpability of the applicant gets aggravated because he was a Police Officer and he knew the laws of the land. What he did was a criminal offence and a criminal case should have been registered against him. He was tried only departmentally and a lenient view was taken not to register a case against him. The forfeiture of 5 years approved service reduced to one years' forfeiture by the appellate authority also shows the extremely sympathetic and lenient view and requires no interference by the court.

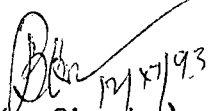
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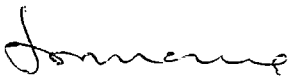


7. The cause of action arose in 1981 and petition was filed in 1988 and the application is thus hopelessly time barred. Repeated representations do not add to the period of limitation. This has been held in S.S. Rathore Vs. State of M.P. (1989) 11 ATC 913 SC.

8. In the facts and circumstances of the case we find no merit and substance in the D.A. and the same is dismissed on grounds of merits and also on ground of limitation.

Cost on parties.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

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