

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 670/88

Date of decision: 2.9.1993.

Shri Raja Ram

...Petitioner

Versus

Delhi Administration & Others

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner Shri V.P. Sharma, Counsel.

For the respondents Shri O.N. Trisal, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard Shri V.P. Sharma and Shri O.N. Trisal learned counsel for the petitioner and the respondents. The case of the petitioner is that he was chargesheeted while working as a Constable in Delhi Police for remaining absent from duty. An enquiry officer was appointed on 11.9.1985 and 11 prosecution witnesses were examined. Thereafter his services were terminated under Rule 5(1)(b) of Central Civil Services (Temporary Service) Rules, 1965 vide order dated 13.9.1985. He filed an appeal on 14.10.1985 which was rejected on 30.12.1985. Thereafter he submitted a memorial to the President which was forwarded by the respondent administration to the President under their letter No.F.21/22/86-Home(D)/Estt. dated 12.6.1986. The President after considering the memorial accepted the submissions made by the petitioner. Accordingly the President ordered that "Ex-Constable Raja Ram No.18866/DAP may, therefore, be reinstated in service from the date of termination of his services, under intimation to this Ministry."

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(The order of the President was communicated to the Delhi Administration by the Ministry of Home Affairs.) The petitioner was accordingly reinstated in service w.e.f. 20.10.1986. The grievance of the petitioner is that after his reinstatement the respondent administration ordered that the departmental enquiry proceedings be continued from the stage at which "it was kept in abeyance by Shri Qumar Ahmed the then D.C.P. 9th Bn. D.A.P vide order No.2404-9/HAP-9 Bn.DAP dated 10.12.1986. In pursuance of the said proceedings a show cause notice was issued to the petitioner on 3.2.1987 as to why he should not be dismissed from service. In the said show cause notice it has been stated that after the termination of your service departmental enquiry proceedings against you were closed.

2. We asked the learned counsel for the respondents Shri O.N. Trisal to show us the orders of the Delhi Administration which were passed when it was decided to hold in abeyance or close the proceedings in the departmental enquiry against the petitioner and resort to the application of C.C.S. (T.S.) Rules, 1965 to terminate his services. No material could be produced in this behalf. The Government of India's instruction No.9 under Rule 15 of C.C.S. (C.C.A) Rules (Swamy's Compilation December, 1991 Edition) stipulates that:-

"It is clarified that once the proceedings initiated under Rule 14 or Rule 16 of the C.C.S. (C.C.A) Rules, 1965 are dropped the disciplinary authority would be debarred from initiating fresh proceedings against the delinquent official unless the reasons for cancellation of the original

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chargesheet or for dropping the proceedings are appropriately mentioned and it is duly stated that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case."

In absence of any material to the effect that the proceedings against the petitioner were dropped without prejudice to further action, we are unable to find any reason for the respondents ordering to continue the disciplinary proceedings which on their own admission were closed when they resorted to C.C.S. (C.C.A) Rules, 1965 for terminating the services of the petitioner. Once the disciplinary proceedings were closed, they cannot be reviewed as per Government of India's instructions reproduced above, unless such an order was passed by the respondents at the stage of closure.

3. In view of the above facts and circumstances of the case we quash the continued disciplinary proceedings and the order passed in pursuance thereof by the disciplinary authority on 12.3.1987, dismissing the petitioner from service. The petitioner shall be deemed to have continued in service from the date his service was terminated. He shall be entitled to all consequential benefits subject to his certifying that he was not gainfully employed after his service was terminated by the order of the disciplinary authority dated 12.3.1987. The O.A. is accordingly allowed, as above. No costs.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)

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