

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.
Regn. No. 634/86

Date: 4.5.1989.

Shri Jaipal Singh Applicant

Versus

Union of India & Ors. Respondents

For the Applicant Shri J.P. Verghese, Advocate

For the Respondents Mrs. Avnish Ahlawat, Adv. &
Shri Mukul Talwar, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri M.M. Mathur, Administrative Member.

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

2. To be referred to the Reporter or not? *Yes*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who has worked as a Constable
in the Delhi Police, filed this application under Section
19 of the Administrative Tribunals Act, 1985 praying
that the impugned order dated 23.4.1967 whereby his
services were terminated, be quashed, that he be
reinstated in service, and that he be given all conse-
quential benefits.

2. The case was admitted on 21.8.1986. The respondents
have filed their counter-affidavit and the applicant, his
rejoinder.

3. The case was listed for final hearing on 26th
April, 1989 and 27th April, 1989, when we heard the
learned counsel for both the parties at length. We
have also gone through the records of the case carefully.
The applicant is relying upon the judgement delivered by
Shri H.L. Anand, J. of the Delhi High Court on 18th July,
1983 in the case of Surat Singh & Ors. Vs. Union of India.
The applicant contends that in spite of long delay in
the filing of the petition, the Delhi High Court quashed

* CWP. No. 270 of 1978 and CWP No. 937 of 1978.

the impugned orders of termination in that case. He further contends that similar judgements have been passed by this Tribunal in other cases and that he is also entitled to the same benefit.

4. The respondents have contended in their counter-affidavit that the application is liable to be dismissed on the ground of delay and laches. The applicant was a temporary Constable and his services were terminated by the impugned order dated 23.4.1967 under Rule 5 of the C.C.S. (Temporary Service) Rules, 1965. He did not file any representation against the impugned order of termination. He cannot be permitted to challenge the impugned order after 19 years merely because the High Court has allowed the writ petition in Surat Singh's case. The respondents have also contended that the decision of the Supreme Court in one particular case cannot be applied in other cases automatically. The writ petitions filed in the High Court were not filed in representative capacity.

5. The applicant has stated in his rejoinder that he made several representations to the Inspector General of Police for reinstatement but they were of no avail.

6. The learned counsel for the applicant has heavily relied upon the decision of the Tribunal dated 26.11.1987 in Dharam Pal & Others Vs. Union of India & Others, 1988 (6) A.T.C. 396. In Dharam Pal's case, the Tribunal had allowed a batch of writ petitions which had been transferred from the Delhi High Court to the Tribunal wherein the relief similar to that in Surat Singh's writ petition, had been sought. He also stated that another batch of transferred applications was similarly disposed of by

the Tribunal vide its judgement dated 11.1.1988 in Hira Lal Vs. Union of India & Ors. He also drew our attention to the decision of the Tribunal dated 11.1.1988 in OA-1276/87 (Chhida Singh Rawat Vs. Union of India & Others).

7. In Chhida Singh Rawat's case, the applicant had filed a writ petition No.3174/85 in the Supreme Court which was disposed of by the Supreme Court by order dated 27.8.1987 which reads as follows:-

"Liberty is given to the petitioner to apply under Section 19 of the Administrative Tribunals Act to the appropriate Tribunal. In view of the fact that the writ petition is pending in this Court, the Tribunal shall condone the delay, if moved."

8. Thereafter, the applicant filed OA-1276/87 which was disposed of by judgement dated 11.1.1988. Against the said judgement, the Union of India filed a Special Leave Petition No.9433/88 in the Supreme Court which was disposed of by that Court on 7.3.1989 with the following order:-

"Heard learned Solicitor General in support of the petition. One of his points is that the real facts have not been taken into consideration by the Tribunal and the same were not placed and the matter has been disposed of in the absence of the Union of India in the present proceedings. If that be so, it is open to the petitioner to go before the Tribunal to ask for such reliefs as are admissible, but we express no opinion as to tenability of such a move. The Special Leave Petition is disposed of accordingly."

9. The judgement of Shri H.L. Anand, J. of the Delhi High Court has also considered the plea of delay and laches and rejected the same. The Delhi High Court has referred to the statement made in Parliament by the Home Minister to the effect that a large number of agitating Constables had been taken back and cases

pending against some were withdrawn. Since there was no distinction between the cases of the petitioners before the High Court and of those who were taken back, the petitioners were justified in the hope that they would eventually be taken back pursuant to a declared Government policy. The High Court also noted that the representations made by the petitioners had remained undisposed of. On a consideration of these factors, the Delhi High Court quashed the impugned orders and directed that the petitioners would be deemed to have continued in service and would be treated as such, but without prejudice to such action as the authorities may be advised to take in relation to the matter in accordance with law. This would, however, be subject to the following conditions:-

- (a) the implementation of the direction would remain stayed for a period of 4 weeks to enable the authorities to decide as to their future course of action as also to make verification with regard to the conduct of the several petitioners during the period they have been out of the police force;
- (b) On the expiry of the aforesaid period of 4 weeks, such of the petitioners with regard to whom verification has been made and the authorities are satisfied that there is no obstacle to their reinstatement, would be reinstated;
- (c) In the cases of the petitioners with regard to whom further enquiries are necessary, they would be reinstated on the expiry of aforesaid period of 4 weeks, but provisionally, pending conclusions of such further enquiries.

The further enquiry would be concluded within a period of 3 months from the expiry of the aforesaid period of 4 weeks;

(d) The petitioners would be granted adequate opportunity of being heard in cases where it is proposed to deny them the right of reinstatement and in such cases, the authority making such orders would give reasons so as to enable the aggrieved petitioners to challenge the same in appropriate proceedings;

(e) In cases in which petitioners are denied the right of reinstatement they would nevertheless be entitled to adequate compensation, which would be determined after giving to each of them an opportunity of being heard and the compensation in no case would be less than 15 days' salary for each completed year of service put in by the petitioners concerned. In computing such period, the period during which the petitioners remained out of the service of the Police force involuntarily, would be treated as the period during which they had been in such service. The compensation would be in addition to the dues on account of salary and other benefits in respect of the period. Such petitioners would be deemed to be in service.

10. Hira Lal's case and a batch of other cases in T-1260/85 and OA-1276/87 filed by Shri Chhida Singh Rawat were disposed of by the Tribunal by judgements dated

On

11.1.1988 wherein the Tribunal followed the decision of the Delhi High Court in Surat Singh's case and passed similar orders in this case.

11. The main plea of the respondents in the instant case is that the application is barred by limitation in view of the express provisions contained in Section 21 of the Administrative Tribunals Act, 1985. No doubt, there has been inordinate delay in the filing of the present application. However, what the applicant is seeking in the present proceedings is to issue a direction to the respondents to give him the treatment as was given to persons similarly situated. In this context, the learned counsel for the applicant heavily relied upon the decision of the Delhi High Court in Surat Singh's case which was followed by the Tribunal in Dharam Pal's case and Hira Lal's case and Chhisi Singh Rawat's case.

12. In our opinion, the provisions of Section 21 of the Administrative Tribunals Act, 1985 would not stand in the way of entertaining an application of the type before us in view of the exceptional circumstances. In A.K. Khanna & Others Vs. Union of India & Others, A.T.R.1988(2), C.A.T. 518, this Tribunal has held that not extending the benefit of a judgement given in a similar case to the petitioner on the ground that he was not a party to the earlier judgement, would amount to discrimination violative of Articles 14 and 16 of the Constitution.

13. In the light of the above, the application is allowed. The applicant will be entitled to the same reliefs as were granted to the petitioner by Shri Anand, J. in writ petitions CWP-270/78 and CWP-937/78 referred to above. There will be no order as to costs.

M.M. Mathur
(M.M. Mathur)
Administrative Member

Q.D. 15/89
(P.K. Kartha)
Vice-Chairman (Judl.)