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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

RA 61/93
MP 667/93 in
OA 1141/87

New Delhi this the 10th Day of February, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Sh. Prehlad Singh,
S/o Sh. Ram Jiwan,
Vill. Mudhlia,
P.O. & P.S. Bikaner,
Riware District,
Mahendragarh,
Haryana.

Review
Applicant

(By advocate Sh. J.P. Verghese)

versus

1. Delhi Administration,
through its Chief Secretary,
Old Secretariat,
Rajpur Marg,
Delhi.
2. Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi.

Respondents

(By advocate Ms. Veena Kalra, proxy counsel
for Sh. D.N. Goburdhan, counsel)

ORDER (ORAL)
delivered by Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

This is an application with the prayer
that the judgement dated 15.5.1992 passed by a
Division Bench of this Tribunal (Hon'ble Sh. P.K.
Kartha and Hon'ble Sh. I.K. Rasgotra) as then they
were in O.A.No.1141/87 may be reviewed.

We have heard the learned counsel in
this application. A reply too has been filed on
behalf of the respondents.

The argument advanced in the forefront by Sh. Verghese is that this Tribunal disposed of the aforesaid O.A. under some misconception in so far as it relied upon the Delhi Police (Punishment & Appeal) Rules, 1980 to the facts of the case but in fact enquiry was held under the Punjab Police Rules, 1934. We may deal with this submission immediately. It will be presumed that the Tribunal was aware of the fact that the Delhi Police Act came into force in 1978 and the rules were framed thereunder sometimes in the year 1980. The enquiry was held prior to the date of the enforcement of the 1980 Rules. The position is clarified in paragraph 8 of the judgement of the Tribunal wherein a reference is made to the Rule 16.2(1) of the Punjab Police Rules, 1934. It is stated in the said paragraph that the learned counsel appearing for the petitioner relied upon the said provision. In paragraph 9 of the judgement the learned Members stated that the aforesaid Rule 16.2(1) of the Punjab Police Rules, 1934 corresponds to Rule 8(a) of the Delhi Police (Punishment & Appeal) Rules, 1980. Thereafter, the learned Members proceeded to examine the contention advanced in the light of Rule 16.2(1). We are unable to discern or infer from a combined reading of paragraphs 8 & 9 afore-mentioned that the learned Members proceeded on the assumption that the Delhi Police (Punishment & Appeal) Rules, 1980 were applicable to the case of the applicant. We are

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satisfied that the Tribunal proceeded on the assumption that the Punjab Police Rules were applicable to the case of the petitioner.

The learned counsel next urged that the applicant had not been afforded the second opportunity, namely, to show cause against the proposed punishment. We have gone through the contents of the O.A. carefully. In it, we do not find any whisper of the said complaint either in the body or in the ground taken in support of the same. The judgement too, does not take any notice of this argument. We, therefore, presume that no such argument was made on behalf of the applicant on the said score.

The third grievance made is that the learned Members did not consider the proportionality of the punishment awarded to the petitioner. In paragraphs 10 & 11 the Tribunal has given reasons as to why they do not accept the contention that the punishment awarded is excessive. The Tribunal considered the law as laid down in the case of Union of India Vs. Parma Nanda, A.I.R. 1989 S.C. 1185.

In our opinion, the judgement sought to be reviewed does not suffer from any error much less apparent on the face of record. Therefore, this R.A. is rejected on merit.

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Apart from merit, this application is liable to be rejected on the ground of limitation. It is on record that on 29.5.1992, a certified copy of the judgement was duly served upon the learned counsel for the petitioner. This review application was filed on 13.8.92. It may be noted that a review application should be presented within 30 days from the date of receipt of the judgement. The learned counsel for the applicant has filed an application seeking the condonation of delay. No satisfactory explanation has been offered, apart from saying that the applicant could not contact his counsel. This is an additional ground for rejecting this application.

B.N. Dholiyal
(B.N. Dhoundiyal)

Member (A)

S.K. Dhaon
(S.K. Dhaon)

Vice-Chairman

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