

In the Central Administrative Tribunal
Principal Bench: New Delhi

Regn. No. RA 330/1992
MP 3297/1992
OA 560/1989

Date of decision: 13.04.1993.

Shri Arvind Kumar ...Applicant

Versus

Delhi Administration & Another ...Respondents

For the Applicant ..Shri J.P. Verghese, Counsel

For the Respondents ..Shri Satish Kumar Rao, SI
on behalf of the respondents.

CORAM:-

**THE HON'BLE MR. JUSTICE S.K. DHAON, VICE-CHAIRMAN
THE HON'BLE MR. I.K. RASGOTRA, ADMINISTRATIVE MEMBER**

1. To be referred to the Reporters or not?

JUDGEMENT(ORAL)
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

This is an application seeking the review of the order dated 7.8.1991 passed by the learned Members of this Tribunal (not us), finally disposing of OA 560/1989. The said OA was directed against the order dated 1st March, 1988 passed by the disciplinary authority, inflicting the punishment of removal from service upon the applicant. The revision application preferred by the applicant, was also dismissed. The two orders were being impugned in the original application.

2. The order sought to be reviewed is a well discussed one. It runs into 13 paragraphs. It appears to us that all the arguments advanced by the learned counsel for the applicant at the Bar were noticed.

3. Two submissions have been made in support of this application. The first is that this Tribunal committed an error apparent on the face of the record when it sustained the punishment awarded to the applicant on the ground that he acted in violation of Rule 8 of the CCS (Temporary Service) Rules, 1965.

4. The arguments is considered and met in paragraph 13 of the order. The learned Members pointed out that the revisional authority inadvertently referred to Rule 8 of the CCS(Temporary Service) Rules, 1965. They took pains to point out that the said Rule had not been referred to either in the charge memo given to the applicant, or in the order passed by the disciplinary authority. We have seen the record of the O.A. and find that the learned Members were right in recording the finding that Rule 8 had not been referred to at all either in the charge memo. or in the order passed by the disciplinary authority.

5. The second submission is that the learned Members, while preparing the order, overlooked the specific argument advanced on behalf of the applicant that he was denied the opportunity of showing cause against the proposed punishment as contemplated in Rule 16 of the Delhi Police (Punishment & Appeal) Rules, 1980. We have seen the original application carefully and we find that there is not even a whisper that Rule 16 in so far as it related to giving of the second

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opportunity to the applicant had been observed in its breach. No such ground had also been taken in the application. We are, therefore, unable to accept the applicant's version that the learned Members overlooked the argument in that behalf.

6. We are satisfied that no case has been made out for the exercising the powers of review which are confined to Order 47 of the Code of Civil Procedure, as applicable to this Tribunal. The Tribunal did not commit any error apparent on the face of record.

7. We have already indicated that the order sought to be reviewed is dated 7.8.1991. The review application was filed on 13.04.1992. In between, on 14.11.1991, the applicant made an application purportedly to be under Rule 24 of the Rules. It is thus apparent that even the application under Rule 24 was presented more than three months after the passing of the order dated 7.8.1991. It is alleged that the order rejecting the application under Rule 24 was communicated to the applicant on 1.4.1992. This Tribunal, while rejecting the said application reserved the right of the applicant to file a Review Application. It is implicit that this Tribunal took the view that the application under Rule 24 was a misconceived one. Rule 24, if at all, deals with the execution of the orders of the Tribunal. Section 22(3) of the Administrative Tribunals Act, 1985, confers upon the Tribunal the power to review its decisions. It, therefore, cannot

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be said that the applicant acted with due diligence in filing an application under Rule 24 instead of a review application. In any view of the matter, the applicant has not been able to make out a case for the condonation of the delay in filing of the review application.

8. The application is rejected.

Sukhbir
(I.K. RASGOTRA)
MEMBER (A)

13.04.1993

Sukh
(S.K. DHAON)
VICE CHAIRMAN
13.04.1993