

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(3)

O.A.No:1950/91

DATE OF DECISION 24.09.1991

SHRI ARJUN SINGH

-- APPLICANT

VS

UNION OF INDIA & ORS.

-- RESPONDENTS

CORAM

HON'BLE SHRI I.K.RASGOTRA, MEMBER (A)

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

SHRI B.R. SAINI, COUNSEL

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

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

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant, ex-Machinist, Army Base Workshop Delhi Cantt filed this application aggrieved by the order of compulsory retirement dated 8-5-1974 and rejection of the revision against that order by the order dated 16-7-1986. In this application the applicant has prayed that both the impugned orders be quashed as those are without jurisdiction, nullity, arbitrary and in violation of provision of C.C.S. (CC & A) Rules, 1965 and also infringing Articles 14 and 16(1) of the Constitution of India.

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2. The facts of the case are that the applicant^{while} was working as Machinist held demonstration prejudicial to public order inside workshop at about 13.20 hrs and 16.15 hrs. on 20-6-1973 for which he was issued a charge sheet dated 25-6-1973. Alongwith^{the} applicant another ^{employee} / Shri Sekh Subhan was also issued the charge-sheet for the same mis-conduct. The Inquiry was ordered on 12-6-1973 under Rule 14 of the C.C.S. (CC& A) Rules 1965. After completion of the Inquiry the Inquiry Officer submitted the report regarding his assessment and held that the charges against the applicant have been fully proved. The applicant was served with a notice of compulsory retirement vide order dated 19-3-1974. The disciplinary authority ^{Colonel} / M.C. Bhatnagar on 8-5-1974 passed the punishment order of compulsory retirement. The revision against the same has been dismissed by Vice Chief of the Army Staff by the order dated 16-7-1986.

3. It appears that the applicant has filed the original application some time in September, 1988 but on objection from the Registry it was taken away and again it has been filed on 26-7-1991. An application for condonation of delay has also been filed.

4. We have heard the learned counsel on the point of admission. Section 21 of the Administrative Tribunals Act, 1985 lays down a period of limitation within which the applicant can come for the redressal of his grievance. Further any application under 5 of the Limitation Act, the party seeking the relief has to satisfy the court that it has sufficient cause for

5

not preferring the application within the prescribed time. In the present case, there is no reason whatsoever as to why the applicant did not come immediately after the rejection of the revision petition by the Vice-Air Chief on 16.7.1986 to the Court. The applicant should have filed the application within six months thereafter. Instead, the applicant filed the application in the year 1988 and the Registry returned the application as it was time-barred. The application was taken away by the counsel and it was again filed in July, 1991. An endorsement has been made on the application that the application is within time and the order is without jurisdiction and no clause of Limitation Act is involved. In support, the clerk of the Advocate, Shri Satya Prakash has filed the affidavit with the M.P. for the condonation of delay stating it to be true to his knowledge. The M.P. which has been filed has only two paragraphs. The first paragraph of the M.P. indicates that the original set of the application which was returned by the Registry, due to his (clerk) mistake, was bundled with other files and as such was not traceable for long time. This reasoning on the face of it does not appear to be convincing and we are not inclined to accept as the application for condonation of delay does not disclose any sufficient and reasonable cause.

5. The learned counsel for the applicant argued that the order of punishment has been passed by an authority who was not competent to do so. We are not convinced on that point too. Nowhere the applicant has taken such a plea in the departmental proceedings. The learned counsel for the

2

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applicant has referred to the case of Shri Beer Singh versus Union of India and Others reported in 1990 (6 SLR Page-491 CAT). The facts of the case were totally different as ⁱⁿ that case the impugned order was void. The reliance was also placed on the State of M.P. Versus Syed Qamarali, 1967 SLR 229 and the relevant matter is at page-234. In that case, the case of dismissal was made in breach of the relevant rules.

6. In the facts of this case, we are of the view that the present application is hopelessly time-barred and is dismissed at the admission stage itself alongwith M.P. for condonation of delay leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA) 24/9/91
MEMBER (J)

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A) 24/9/91