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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO.2397/2004

New Delhi: this the 21st day of April, 2005

HON'BLE MR. SHANKER RAJU, MEMBER(J)
HON'BLE MR. S.A.SINGH, MEMBER(A)

W/HC Kusum
(PIS NO.28872108)
R/o WZ-24, Toda Pur,
New Delhi-12
(By Advocate: Shri Anil Singal)

...Applicant

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police,
Police Head Quarter,
IP Estate,
New Delhi.

2. Addl. Commissioner of Police,
Armed Police,
Police Head Quarter,
IP Estate, New Delhi

3. DCP (3rd Bn. DAP)
Through Commissioner of Police,
Police Head Quarter,
IP Estate, New Delhi

...Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

By Hon'ble Mr. S.A.Singh :

The applicant, who is a Head Constable in Delhi Police, while posted at PS Naraina Vihar, was sanctioned five days' casual leave from 8.12.96 but she did not rejoin her duties on completion of Casual Leave. A disciplinary enquiry was initiated against the applicant on ground of absence on 12.11.1998 (Annexure A-3). Disciplinary authority awarded a punishment of forfeiture of two years' approved service permanently. Appeal of the applicant was rejected on 12.03.1999 (Annexure A- 4). Revision Petition was rejected on 06.07.2001(Annexure A 5).

2. On 24.08.2004 (Annexure A-10) Promotion List D-1 was published where the name of the applicant did not figure as she was declared unfit due to award of punishment. The applicant has filed the present OA on 30.09.2004 seeking quashing of

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the impugned orders (Annexures A-1 to A-5) and virus of Rule 16 of Delhi Police (P& A) Rules, 1980 and prays for restoration of her reduced pay and withheld increments with all consequential benefits.

3. The respondents made a preliminary objection that this application is liable to be dismissed on the ground of delay and laches as the order of disciplinary authority was passed on 12.11.1998 and the appellate order was passed on 12.03.1999. The OA was filed in September 2004. Therefore, the OA is not maintainable, as limitation is to be counted from 12.03.1998.

4. The applicant has filed an MA for condonation of delay taking the grounds that she was ignorant of the rules and instructions and did not have good knowledge of English and further did not know about this Hon'ble Tribunal and how to challenge the order of punishment. She could not file the OA within the prescribed period for this purpose. However, when the names of her juniors were brought on Promotion List D-1 vide order dated 24.08.2004, she approached the respondents and understood that she could challenge the impugned orders in the Tribunal. She relied upon the judgment of the Apex Court in **Ajaib Singh Vs Sirhind JT 1999 (3) SC 38**, that the delay should be condoned. This was strongly objected to by the respondents stating that an aggrieved party has to approach the Court within the statutory period prescribed and the Court cannot grant relief prayed for after the prescribed period. They also relied upon the cases of **State of Punjab Vs Guru Dev Singh (1991) 4 SCC 1** and **UOI Vs Ratan Chandra Samnta JT 1993 (3) SC 418**. The respondents took support of the judgment of the Hon'ble Supreme Court in **Harish Uppal Vs UOI JT 1994 (3) SC 126** where the Apex Court had held that the delay defeats equity and the Court should help those who are vigilant and not those who are indolent. The parties are expected to pursue their rights and remedies and if they just slumber over their rights, the Court should decline to interfere. They have also stated that in the case of **Ratan Chandra Samanta (supra)**, the Hon'ble Supreme Court held that delay deprives a person of the remedy available and if the remedy is lost, the right also is lost.

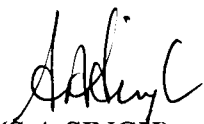
The respondents have pleaded that there is delay of more than five years in filing the OA as the disciplinary authority had passed the order in November, 1999. In view of the foregoing the OA should be dismissed.

5. We have heard the learned counsel for the parties and have gone through the documents placed on record on the preliminary objection of limitation.

6. It is not contested that the OA was filed beyond the period of limitation. The only ground taken by the applicant is that the delay should be condoned as she was not having good knowledge of English and was not knowing about the rules and instructions in this regard. This is difficult to accept in view of the fact that the applicant is a Head Constable in Delhi Police and she should be fully familiar with the existence and working of the Central Administrative Tribunal. It is also difficult to accept that she does not know enough English as she has signed the application in English. The applicant has relied upon the case of **Ravindra Jain Vs. M/s Natraj Albums Industries (Pvt.) Ltd. 1997 IAD (Delhi) 420** stating that while dealing with an application under Section 5 of the Limitation Act, a liberal and not pedantic approach has to be adopted. This case would not come to the aid of the applicant as the facts are distinguishable. In the **case of Ravindra Jain (Supra)** the question before the Hon'ble Court was of condonation of delay in filing the appeal. The appeal did not accompany the memo of appeal and was filed after a few days of appeal. In such a case it is a procedural requirement. As such the Court has held that a liberal and not pedantic approach has to be adopted. Such is not the question in the present OA. In the present case, the applicant has not pursued her rights and remedies expeditiously and has slumbered over her rights. As held by the Apex Court in **Harish Uppal's case (Supra)** delay defeats equity and the Court should help those who are vigilant and not those who are indolent. She has clearly failed to show diligence.

7. In view of the foregoing we see no ground for condonation of delay. Hence without going into the merits of the case, the OA is dismissed on the ground of limitation.

No costs.


(S.A.SINGH)
MEMBER(A)


(SHANKER RAJU)
(MEMBER (J))