

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2909/2004
M.A.No.2421/2004

New Delhi, this the 6th day of December, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member(A)

Ex. Const. Surya Pratap Singh,
S/o Shri Ravinder Singh,
R/o Village & P.O. Atrauli,
P.S. Pilkhuwa, Distt. Ghaziabad (U.P.)

....Applicant

(By Advocate: Shri Arvind Singh)

Versus

1. Union of India, through
its Secretary (Home)
Through
Commissioner of Police/Delhi,
Police Headquarters,
I.P. Estate, New Delhi
2. Jt. Commissioner of Police,
Northern Range,
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police,
Central District,
Delhi Gate, Darya Ganj, Delhi

....Respondents

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks quashing of the order dated 1.10.96 whereby invoking Article 311 (2) (b) of the Constitution, he has been dismissed from service and quashing of the order passed in appeal dated 15.11.99.

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2. Some of the relevant facts can conveniently be delineated to appreciate the controversy whereby the applicant seeks condonation of delay in filing of the present application.

3. The applicant was a Constable in Delhi Police. Keeping in view the act and conduct and that he was involved in large number of cases, Article 311 (2) (b) of the Constitution had been invoked and he was dismissed from service in the year 1996. It is contended that though the appeal was dismissed in 1999, he has since been acquitted from all those matters and therefore, by virtue of the present application, he seeks quashing of those orders.

4. Alongwith the application, a petition has been filed seeking condonation of delay in filing of the present application contending that he has since been acquitted in all those matters and, therefore, delay may be condoned.

5. We have heard the learned counsel for the applicant.

6. Perusal of the record reveals that the applicant had been dismissed by invoking Article 311 (2) (b) of the Constitution not on the ground that he has been convicted or acquitted in any particular case. The orders had been passed keeping in view the nature of the applicant's involvement in different matters and that it was not reasonably practicable to hold a regular departmental enquiry against the applicant who is stated to be a dangerous and desperate character. Resultantly, the acquittal of the applicant in any such cases subsequently would be of very little avail to him.

7. The applicant at the appropriate time after his appeal was dismissed kept quite for almost five years and never cared to challenge the said orders. To await the orders passed by the court in criminal cases would be irrelevant because departmental

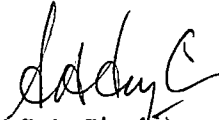
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proceedings can always be initiated and findings can be arrived at. In fact, the Delhi High Court in the case of Government of NCT of Delhi and ors. vs. Rajpal Singh, 2003 (2) SLJ 130 has already come to such a conclusion that irrespective of the acquittal which comes subsequently when departmental action has already culminated into finality, there is little ground to interfere. The Delhi High Court held:

“Furthermore, even assuming that two interpretations are possible, it is now well known that the interpretation which would give effect to the object and purport of the Act should be favoured by taking recourse to the doctrine of purposive construction. So construed, we are of the opinion that Rule 12 would not be attracted when an order of punishment had already been imposed before the judgment of acquittal was rendered in favour of the respondent.”

8. The above facts clearly show that the ground taken by the applicant for condonation of delay will not cut any ice.

9. Resultantly, on this short ground, the O.A. fails and is dismissed *in limine*


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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