

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2023/2004

New Delhi, this the 26<sup>th</sup> day of May, 2005

Hon'ble Mr.Justice V.S. Aggarwal, Chairman  
Hon'ble Mr.M.K. Misra, Member(A)

Ayub Khan,  
Ex.Const. No.704/Sec.,  
S/o Shri Alumoodin,  
R/o Vill. & P.O. Khera Mastan,  
Police Station Kanghala,  
Distt. Muzaffar Nagar, U.P.

...Applicant

(By Advocate: Shri Sama Singh)

Versus

1. GNCT of Delhi, through  
Its Chief Secretary,  
Delhi Secretariat,  
New Delhi.
2. Commissioner of Police,  
Delhi Police Headquarters,  
M.S.O. Building,  
I.P. Estate, New Delhi
3. Addl. Commissioner of Police,  
Security, New Delhi
4. Addl.Dy.Commissioner of Police,  
Security, New Delhi

....Respondents

(By Advocate: Shri S.Q. Kazim with Shri Falak Mohd. and Shri Sumit  
Sharma)

Order(Oral)

**Justice V.S. Aggarwal, Chairman**

The applicant seeks to assail the order passed by the disciplinary authority dated 11.8.98 whereby he had been removed from service and of the appellate authority dated 7.8.2003 by virtue of which the appellate authority had dismissed the appeal to be barred by time.

2. Relevant facts are that the applicant joined Delhi Police as a Constable in January 1977. In 1996, departmental proceedings were initiated against him on the assertion that while posted in the Main Security Line, he proceeded on duty rest and was to resume his duty on 16.6.96. He did not turn up and absented himself unauthorizedly without any intimation or permission. The departmental proceedings were entrusted to Inspector Tika Ram. The applicant was served with the summary of allegations on 7.4.97 at his native place as he was running absent. He did not attend the proceedings and with the permission, the departmental proceedings were conducted ex-parte. The enquiry officer submitted that the charge against the applicant pertaining to absence from duty is proved. Agreeing with the report of the enquiry officer, copy of the same was delivered to the applicant. The applicant did not submit any written representation. Thereafter the order was passed by the disciplinary authority to which we have already referred to above. His appeal was dismissed as time barred.

3. We have heard the parties counsel and have seen the relevant record.



4. Learned counsel for the applicant contended that the applicant was unwell and he drew our attention to the medical certificate from Jindal Hospital, Yamuna Vihar which indicated that applicant was unwell from 16.8.98 to 11.2.99. He further urged that son of the applicant was missing and consequently the applicant was upset. He was searching for his son. He was greatly worried and, therefore, he could not prefer the appeal against the order of the disciplinary authority and delay should have been condoned by the appellate authority.

5. In the peculiar facts, we find that the said contention of the learned counsel necessarily cannot be accepted. The medical certificate to which we have referred to above clearly indicates that the applicant was unwell as per the said medical certificate produced only for a period of about seven months. After the order of the disciplinary authority, the applicant did not prefer any appeal for almost five years. He has to explain the delay after the period of limitation expired.


6. Even if the applicant was unwell for a period of seven months, necessarily he could have preferred the appeal in time. The assertion that his son was missing and, therefore, he could not submit the appeal is too vague. As per the applicant, his son was missing since January, 1996. The applicant had been attending to his duty thereafter till June, 1996. Therefore, the said plea will not find favour because the applicant continued to attend the duties after that.


7. Delay necessarily had to be explained in filing of the appeal by giving just and sufficient grounds. Suddenly filing of the appeal without any just and sufficient ground and without reasonable explanation which is not forthcoming,



will not be a good ground to condone the delay. Vaguely stating that the applicant was unwell and worried, can hardly be taken in the peculiar facts to be just and sufficient grounds for condonation of delay in filing of the appeal. The appeal was filed after a period of five years from the date the order was passed by the disciplinary authority and, therefore, was rightly dismissed. We find no ground to interfere.

8. For these reasons, the O.A. being without merit must fail and is dismissed.

  
( M.K. Misra )  
Member(A)

  
( V.S. Aggarwal )  
Chairman

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