

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

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Original Application No. 489 of 1992

Chunni Lal ..... Applicant

Versus

Union of India through  
Secretary Defence Dept.  
Central Secretariate, Delhi  
and two others

Hon'ble Mr. S.N. Prasad, Judicial Member ,  
Hon'ble Mr. V.K. Seth, Admn. Member

( BY HON'BLE MR. V.K. SETH, ADMN. MEMBER )

The applicant in this O.A. has prayed for quashing of the order of his dismissal from service dated 8.10.79 (Annexure-1 of O.A. ) and issue of further direction to the respondents to pay him all consequential benefits of pay etc. to which he would have been entitled had he not been dismissed.

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2. The respondents have resisted the claim ~~claim~~ of the applicant on various grounds.

3. The applicant was appointed as Trainee Machinist in the Small Arms Factory, Kanpur in 1966 and was absorbed as Machinist-C after completion of training and passing trade test. While in service in April, 1973 the applicant was arrested by Sisamau Police in the case crime-90 under section 240/235 IPC and was placed under suspension w.e.f. 3.4.1973. By an order dated 5.12.1977

passed by Additional Sessions Judge the applicant was convicted and sentenced under section 240 of IPC to undergo rigorous imprisonment for 15 months. On appeal the Hon'ble High Court of Allahabad by its order dated 12.8.78 while ~~the~~ maintaining conviction of the applicant under section 240 of IPC, reduced the sentence of imprisonment to the period already undergone. In view of the conviction the applicant was issued a show-cause notice <sup>by respondents</sup> dated 18.9.79 as to why he should not be dismissed from service. The respondents in their Counter affidavit have averred that the notice was by registered AD issued to local and permanent addressess but neither acknowledgment receipt ~~and~~ nor any reply could be received. The disciplinary authority (respondent No. 2) there upon by its order dated 8.10.1979 dismissed the applicant from service w.e.f. the date of issue of said impugned order.

4. In his application the applicant claims <sup>had</sup> a representation that he preferred <sup>dated</sup> 11.5.92 against the said dismissal order but there ~~has~~ been no response and hence this application, ~~and~~ <sup>has</sup> he contends that punishing authority ~~has~~ not applied his mind and he was not given any opportunity of hearing, with the result that <sup>there was</sup> ~~the~~ violation of natural justice <sup>for</sup> and he also contends that <sup>a</sup> minor offence under section 240 of IPC he has been awarded extreme penalty or dismissal from service.

5. In their Counter affidavit the respondents have inter alia, pointed out that the applicant <sup>an</sup> had been convicted for <sup>an</sup> offence under section

240 of IPC which is punishable with imprisonment of 10 years and with fine which cannot be treated as minor offence. They also state that the petitioner has not filed any appeal or representation against ~~the~~ his dismissal order and that the present petition is highly belated having been filed after lapse of 13 years.

6. In support of the applicant's case his learned counsel cited the following rulings:

1. 1985 (1) SLR at page 787 State of Himachal Pradesh Vs. Jai Dev Ram
2. Allahabad High Court (Lucknow Bench) State of U.P. through Director, N.C.C. Directorate Vs. Sadanand Mishra and another.

7. As against the above the respondents have cited the following rulings :

1. (1990) 14 Administrative Tribunals cases 508 Uma Shanker Mishra Vs. Union of India & others
2. A.T.R. 1988(2) C.A.T. 133 Shyam Swaroop Vs. Union of India & others
3. JT 1992 (1) S.C. 568 Sardeo Jha & others Vs. Union of India & others.

8. We have carefully gone through the records of the case and given anxious consideration to the arguments advanced by the learned counsel for the parties.

9. We are convinced that it is necessary to first consider the issue regarding limitation before we embark on any discussion of the merits of the case. Section 21 of Administrative Tribunals Act 1985 reads as below :

21. Limitation- (1) A Tribunal shall not admit an application, -

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made ;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where -

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order related; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,


the application shall be entertained by the Tribunal if it is made within the period preferred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later. "


10. In regard to the rulings cited by the learned counsel for the parties we note that the facts and the circumstances of the present case are quite different from the rulings cited by the learned counsel. More-over though in the Rejoinder affidavit the applicant claims that he preferred several representations/appeals against the order of dismissal of 8.10.79 and finally on 11.1.92 followed by a legal notice dated 29.7.92 but he has not <sup>re-</sup> ~~annexed~~ annexed the copies of any such presentations or appeals nor has he mentioned the dates of the same. Further, it is not disputed that the ~~impugned order~~ <sup>impugned order</sup> ~~was made~~ <sup>was made</sup> ~~on 8.10.79~~ <sup>on 8.10.79</sup> ~~and therefore~~ <sup>and therefore</sup> the impugned order of dismissal was made as far back ~~as~~ <sup>as</sup> on 8.10.79 and therefore, the cause

of grievance as far as the applicant is concerned arose then. However, the applicant could not approach the Tribunal at that time as C.A.T. did not exist at the relevant time and was constituted afterwards only under the Administrative Tribunals Act 1985 notified on 22.1.1986. However, the applicant had access to other judicial forums but he failed to take action in ~~that~~ time. In any case the application is barred by limitation as per section 21 (1) & 21 (2) of Administrative Tribunals Act 1985 reproduced earlier. In view of this position we do not consider it necessary to discuss the merits of the case.

11. Considering the inordinate delay and laches on the part of the applicant, we do not find any justification to intervene on his behalf at this late stage and accordingly we dismiss his application. Nevertheless the respondents are at liberty to review his case ~~there~~ under the relevant CCS/CCA rules if they so wish, in the light of submissions made by the applicant in this O.A. but we do not deem it necessary to issue any direction in the matter.

12. The O.A. is disposed of in above terms. In the circumstances of the case there will be no order as to costs.

  
Admn. Member

  
Judicial Member

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Lucknow, Dated: 29 4 94.