

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No. 51 of 1987

Mr. Shivram Pooran Pardeshi, .. Applicant
Alluminium Chawl,
Masjid Road,
Deolali Camp,
Distt. Nashik - 422 401

V/s

1. The Union of India
represented by the Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.
2. Recruiting Def/Rtg 5(OR)
Adjutant General Branch,
Army Head Quarters,
West Block III, R.K. Puram,
New Delhi - 110 022.
3. Head Quarters,
Recruiting Zone,
Pune - 411 001.
4. Branch Recruiting Office,
Colaba, Bombay-5.
5. The Collector,
Near Customs House,
Colaba - Bombay-5.

Coram: Hon'ble Member (A) J.G. Rajadhyaksha
Hon'ble Member (J) M.B. Mujumdar

Appearance:

1. Mr. S. Paul Sundararajan,
Advocate for the applicant.

ORAL JUDGEMENT (Per M.B. Mujumdar) Dated: 17.2.1987.

Heard Mr. Sundararajan, the learned advocate
for the applicant and perused the application and
accompanying papers.

2 The applicant was serving as a Watchman.
Along with the memorandum dated 30 October, 1976 copies
of three charges and other necessary documents were

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served on him. The first charge was that he had accepted illegal gratification from tentative recruits which amounted to misconduct. The second charge was that he was found in possession of unaccounted cash amounting to Rs.1,100 when his house was searched on the evening of 20 February, 1978 and it also amounted to breach of the provisions of Rule 5 of CCS Conduct Rules, 1964. The third charge was that the applicant while he was working as a Watchman left the Head Quarters without obtaining the necessary permission from the concerned authorities. The applicant submitted his reply and denied all the charges. However, the inquiry officer held that all the charges were proved. Thereafter, by a memorandum dated 26 May, 1977 the Zonal Recruiting officer informed the applicant that he agreed with the findings of the Inquiry Officer and he had come to the conclusion that the applicant was not a fit person to be retained in service and hence he proposed to impose on him the penalty of dismissal from service. Applicant was further given an opportunity to make a representation on the penalty ⁱⁿ proposed to be imposed upon him. The applicant did make a representation dated 20 June, 1977. But after considering that representation, the Zonal Recruiting Officer by his order dated 17 July, 1977 imposed the penalty of dismissal from service upon the applicant with effect from 19 July 1977. Admittedly, the applicant did not prefer any appeal against that order nor had he made any representations to the Higher Authorities.

3. However, on 12.1.1987 the applicant has filed the present application for quashing and setting aside

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the order of punishment mentioned above.

4. We have today heard Mr.Sundararajan, the learned advocate for the applicant. He submitted that due to illiteracy, poverty and mental retardation the applicant could not challenge the impugned order in any court so far. In support of the applicant's contention Mr.Sundararajan has relied on a certificate issued by a Special Executive Magistrate dated 5.1.1987.

5. But admittedly the applicant has approached this Tribunal after about ten years. In the case of V.K.Mehra V/s Union of India, Ministry of Information and Broadcasting, New Delhi, AT.R.1986 CAT 203, the Principal Bench of the Central Administrative Tribunal has held that the Act does not vest any power or authority ~~in~~ in the Tribunal to take cognisance of cases arising more than three years prior to the constitution of the Tribunal. According to that decision, the limited power which is vested in the Tribunal to condone the delay in filing the application within the period prescribed is under Section 21, provided the grievance is in respect of an order made within three years prior to the constitution of the Tribunal. In view of this decision, which is also followed in some other cases, we do not think that it would be proper on our part to admit the present application.

6. Moreover, the applicant did make two representations before the impugned order was passed against him. This shows that his mental retardation did not come in the way of his making those representations. The fact that he did not challenge the order of dismissal from

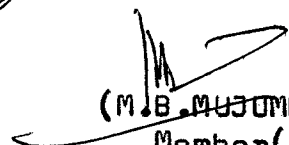
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service for more than ten years shows that he had accepted the order as it was. We may further point out that the applicant has not taken any treatment from any hospital as such. The certificate of a Special Executive Magistrate which was taken just a few days before filing this application will not enable us to condone the delay, even assuming for the sake of argument, ^{that} we have the powers to condone the delay in such cases under sub-section 3 of section 21 of the Administrative Tribunals Act, 1985.

7. Mr. Sundararajan, the learned advocate for the applicant informed us that the applicant is all right now for the last one and half year. We do not know what prevented him from coming to this Tribunal or approaching some other ~~court~~ ^{court} at least during that period.

8. We, therefore, feel that there is no point worth being adjudicated upon by this Tribunal in this case. We, therefore, reject the application summarily under section 19(3) and 21 of the Administrative Tribunals Act, 1985.


(J.G. RAJADHYAKSHA)
Member (A)


(M.B. MUSUNDAR)
Member (J)