

Central Administrative Tribunal, Principal Bench

Original Application No. 161 of 2003

New Delhi, this the 5th day of September, 2003

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

Asstt. Sub-Inspector Ganesh Singh No. 1242/PCR
S/o late Shri Vishnu Dhar Singh,
R/o Village Sujan Pur,
P.S. Dildar Nagar, Distt. Gajipur,
P.O. Tari Ghat, Uttar Pradesh

.... Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Commissioner of Police (Delhi)
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi

2. Addl. Commissioner of Police,
Northern Range,
Police Headquarters,
I.P. Estate, M.S.O. Building,
New Delhi.

3. Dy. Commissioner of Police,
Central District,
Darya Ganj, Delhi

.... Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant was an Assistant Sub-Inspector in Delhi Police. While posted at Police Station, Rajender Nagar, he is alleged to have absented for 1 year and 7 months. A regular departmental enquiry was initiated against him. As a result of the report of the enquiry officer, the Deputy Commissioner of Police had imposed a penalty on the applicant dismissing him from service. He preferred an appeal which had been dismissed on 3.7.97.

2. By virtue of the present application, the orders so passed are being assailed alongwith the order of

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19.12.2002 communicated to the applicant which reads:

"Subject: Statutory revision petition of Ex. ASI Ganesh Singh, No.1242/PCR under rule 25(a) of D.P. (P&A) re-amended rules 1994 against the impugned appellate order No.3342-43/P.Sec.(NR) dated 3.7.1997 and received on 28.7.1997 whereby the appeal preferred against the order of dismissal has been rejected by Ld. Addl.Commissioner of Police (N.R.).

Memo

Please refer to your office diary No.7353/HAP/C, dated 17.11.2002, on the subject cited above.

In pursuance of PHQ's circular No.21038-21108/CR-I/PHQ, dated 28.5.2001, the petitioner may be informed that C.P. : Delhi has no longer revisional powers. Thus, he will be at liberty to move to the Courts against the order of punishment of disciplinary authority and rejection order of appellate authority, if he so desires.

The revision petition alongwith its enclosures are sent herewith for record.

Encls: As above. (S.K. SHARMA) ACP/HQ(C&T)
FOR DY.COMMISSIONER OF POLICE:
HQRS: DELHI"

3. On behalf of the respondents, plea has been raised that the application is barred by time because it has been pleaded that after the appellate order referred to above dated 3.7.97, the applicant had preferred a revision petition dated 7.10.97. It was not entertained being barred by time. The police headquarters vide memo of 22.6.98 communicated to the Deputy Commissioner of Police of the concerned District and a copy of the decision was sent to the applicant vide the letter of 3.7.98 which reads:

"The petitioner has submitted the revision petition on 7.10.97 while the order of appellate authority has been received on 28.7.97. The revision which is not filed within 30 days of the date of receipt of the appellate authority order shall be barred by

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limitation as rules. Thus, the revision petition is time barred. Moreover, the petitioner has not mentioned any cogent reason to justify the condonation for delayed submission. The revision petition has not been entertained by the Commissioner of Police, Delhi being time-barred.

The petitioner may be informed accordingly. His Ch. Roll, Fauji Missal and DE file are returned herewith. Please acknowledge receipt."

4. Respondents plead that after the lapse of four years, representation dated 24.10.2002 had been sent to which the applicant was informed that the revision petition was no longer maintainable.

5. Learned counsel for the applicant had urged that so far as the earlier revision petition is concerned, it had been filed on 7.10.97 but no order had been communicated to the applicant pertaining to rejection of the same and, therefore, the subsequent revision petition in the form of a reminder had been sent to the respondents. On receipt of rejection of the same, the present application has been filed. According to the learned counsel, limitation therefore would start running from 19.12.2002.

6. We have carefully considered the submissions of the learned counsel. It is difficult to believe and in fact it betrays the commonsense in this regard to act on the said submission that the earlier order had not been received by the applicant, if any. In the second revision petition dated 24.10.2002, there is no mention made by the applicant that his earlier revision petition is still pending. If he had not received the earlier order rejecting his revision petition, it would have been a

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natural plea taken that he had filed a revision petition which had not been disposed of. The plea now being offered that the applicant had not received the said order seemingly thus only is a ploy adopted to overcome the difficulty arising with the passage of time.

7. The learned counsel contended that in the order that has now been passed dated 19.12.2002, there is a clear endorsement that it should be served personally to the applicant by deputing a responsible officer. If the earlier revision had been decided and conveyed, a similar endorsement would have been made.

8. We find it difficult to subscribe to this view, the reason being that if the earlier revision petition as alleged by the applicant had been filed in October, 1997, in normal course he would not have waited for more than five years to get in touch with the authorities for disposal of the same. Instead he has chosen to file another revision petition. The totality of facts and circumstances clearly point out, therefore, that the applicant was aware of the earlier dismissal of the revision. He allowed the time to lapse. If after more than four years of the same, another revision is filed, it will not extend the period of limitation. There is no application even for condonation of delay.

9. Resultantly, without dwelling into the merits of the matter, we hold that the present petition is barred by

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time. On this short ground, it fails and is dismissed.

Naik
(S.K. Naik)

Member (A)

/dkm/

Aggarwal
(V.S. Aggarwal)

Chairman.