

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 05.10.2012

+ **W.P.(C) 9136/06**

DEVI SINGH

... Petitioner

versus

COMMISSIONER OF POLICE & ANR.

... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Kaushal Yadav, Mr. Anup Kr. Shrivastava and Mr. Rajat Sharma

For the Respondent : Mr. V.K. Tandon

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. This writ petition is directed against the order dated 31.10.2005 passed in OA No. 2347/2005 and M.A No. 2066/2005 by the Central Administrative Tribunal, Principal Bench, New Delhi. The petitioner had filed the said original application accompanied by the application for condonation of delay. The condonation of delay application has not been accepted and as a result the original application filed by the petitioner has been dismissed by the Tribunal on the ground of limitation.

2. Disciplinary proceedings were initiated against the petitioner which culminated in the order dated 15.04.1991 passed by the disciplinary authority whereby the punishment of dismissal from service was imposed on the petitioner. The petitioner thereafter filed an appeal and by an order dated 06.09.1991 the said appeal was summarily rejected by a non-speaking order by the appellate authority. Being aggrieved thereby, the petitioner approached the Central Administrative Tribunal by way of an original application (OA No. 1987/91) which was disposed of by the Tribunal by virtue of its order dated 23.07.1996 permitting the petitioner to take additional pleas and by remitting the matter to the appellate authority for a decision on merits by passing a speaking order.

3. Thereafter the appellate authority passed a reasoned order dated 11.12.1996, rejecting the petitioner's appeal. Instead of filing an application before the Tribunal, the petitioner filed a representation before the Lt. Governor on 24.02.1997. That representation was also rejected by the Lt. Governor on 18.10.2001. It is the case of the petitioner that the rejection of the representation was not communicated to the petitioner and that the petitioner got a copy of the rejection order dated 18.10.2001 only on 01.08.2003. Of course, there is no material to substantiate this claim that the

petitioner was unaware of the order dated 18.10.2001. However, for the sake of argument we are assuming that the petitioner became aware of the order dated 18.10.2001 some time in the early part of 2003 when the petitioner asked for a copy of the said order dated 18.10.2001 which was ultimately supplied to the petitioner on 01.08.2003. The learned counsel for the petitioner submits that in between, that is, on 26.04.2000 the petitioner (Devi Singh) whose cause is now being espoused by his widow (Santosh Kanwar) suffered a paralytic attack on 26.04.2000 as a result of which he was incapacitated. However, it is also admitted that the petitioner's widow had approached the office of the Lt. Governor for a copy of the order dated 18.10.2001 and that the same was supplied to her on 01.08.2003.

4. The petitioner did not do anything till October, 2005 when the OA 2347/2005 was filed before the Tribunal which has been dismissed on the ground of limitation by virtue of the impugned order dated 31.10.2005.

5. It is absolutely clear that going by the provisions of Section 21 of the Administrative Tribunals Act, 1985, the original application filed by the petitioner in October, 2005 was clearly beyond time. In fact, the petitioner ought to have approached the Court within a year of the passing of order

dated 11.12.1996 by the appellate authority. However, the petitioner chose to file a representation before the Lt. Governor which also came to be rejected on 18.10.2001. As pointed out above, even if we take the date of 01.08.2003 as the date on which the petitioner was supplied a copy of the order dated 18.10.2001, there is no tangible reason as to why the petitioner could not have filed the original application within a period of one year from that date.

6. Consequently, the finding of the Tribunal that the original application was barred by limitation cannot be interfered with. The writ petition is dismissed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

OCTOBER 05, 2012
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