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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11591/2019, CM APPL. 47624/2019**
DY. COMMISSIONER OF POLICEPetitioner
Through: **Mr. Anshuman, Sr. PC**

versus

SUMAN TEOTIARespondent
Through: **Mr. Sudeep Shrotriya and**
Mr. Prakhar Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)
21.01.2025

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C. HARI SHANKAR, J.

1. This writ petition assails judgment dated 3 May 2019, passed by the Central Administrative Tribunal¹ in OA 895/2018².

2. Mr. Anshuman, learned Senior Panel Counsel appears for the petitioner and Mr. Sudeep Shrotriya, learned Counsel appears for the respondent.

3. While he was serving as Constable in the Delhi Police, FIR

¹ "the Tribunal", hereinafter

² **Smt. Suman Teotia v Deputy Commissioner of Police**



No.171/2000 was registered against Sukram Pal Singh³, the husband of the respondent and one Constable Om Prakash, under Section 409 read with 34 of the Indian Penal Code, 1860 on the ground that they had dishonestly misappropriated ₹ 70,000/- from two accused persons who were in their custody and had divided the money half and half. The money was alleged to have been recovered from their respective residences.

4. It is not in dispute that, in the criminal proceedings which followed, Om Prakash was acquitted by the learned Metropolitan Magistrate by order dated 30 November 2016. However, insofar as Sukram was concerned, he expired during the pendency of the criminal case which, therefore, abated.

5. We are informed that, consequent thereupon, the amounts of ₹ 35000/- which had been allegedly recovered from the residences of Om Prakash and Sukram were also returned to them by the department.

6. Disciplinary proceedings were also instituted against Sukram and Om Prakash.

7. The disciplinary proceedings against Sukram culminated in an order dated 31 May 2000 dismissing him from service. The statutory appeal, preferred thereagainst, was also dismissed on 7 June 2001. Sukram did not challenge the said decision and, as already noted, died



on 3 April 2004.

8. Similar disciplinary proceedings, launched against Om Prakash were, however, carried by him to the Tribunal by way of OA 3107/2002 which was allowed by the Tribunal by judgment dated 9 September 2003, in pursuance whereof Om Prakash was reinstated.

9. Sukram, we may note again, died on 3 April 2004.

10. On 14 July 2017, the respondent as the widow of Sukram, addressed a representation to the petitioner Delhi Police, seeking family pension and quashing of the disciplinary proceedings and punishment order dated 31 May 2000, and the appellate order dated 7 June 2001, passed against her husband Sukram as well as release, to her, the family pensionary benefits due to her as Sukram's widow.

11. She claimed parity for her husband Sukram with Om Prakash.

12. The Tribunal has, by judgment dated 3 May 2019, allowed the OA.

13. Aggrieved thereby, the Delhi Police is before us.

14. Mr. Anshuman, submitted that in accordance with the pleadings in the writ petition, the challenge against the order passed by the Tribunal was confined to two aspects; the submission that the OA filed by the respondent was hit by delay and laches and ought,



therefore, to have been dismissed on that sole ground and, secondly, that the respondent had no *locus standi* to approach the Tribunal, especially as Sukram never chose to challenge the order of punishment dated 31 May 2000 or the appellate order dated 7 June 2001.

15. While examining these contentions, we cannot be unmindful of the fact that Sukram actually expired on 3 April 2004 and that Om Prakash, who was, to all intents and purposes, identically situated to Sukram, ultimately succeeded in having the punishment order issued against him set aside by the Tribunal, following which he was reinstated.

16. Mr. Sudeep Shrotriya submits that no real case for interference with the judgment of the Tribunal can be said to exist. He further submits that the reason for Sukram not challenging the punishment order or the appellate order was that he was suffering from indifferent health, resulting in his death on 3 April 2004.

17. On facts, there is no real distinction between the case of Sukram and Om Prakash. Both were co-delinquents in the criminal proceedings, on the basis of which similar disciplinary proceedings have been initiated against them. Om Prakash stood acquitted in the criminal proceedings and, by dint of judgment dated 9 September 2003 passed by the Tribunal in OA 3107/2002, was also reinstated in the Service. The criminal proceedings against Sukram abated on his death.



18. It is in the backdrop of these circumstances that we have to consider whether, on the sole ground of limitation and laches and *locus standi*, the impugned order of the Tribunal should be interfered with.

19. In so far as *locus standi* is concerned, there can be no doubt that the respondent was possessed of the locus to approach the Tribunal. She was the widow of Sukram and was the only person, who, at that stage, could have raised that challenge. That she was indeed Sukram's widow is not in dispute. Her challenge included a claim for family pension to which she alone, therefore, was entitled. We, therefore, cannot hold that the respondent did not possess the *locus standi* to approach the Tribunal.

20. In so far as the aspect of delay and laches is concerned, while it is true that the respondent approached the Tribunal 13 years after Sukram had died, we cannot be unmindful of the fact that the respondent is a lady of indigent means and was the widow of a deceased constable. Moreover, the Supreme Court, has in ***M.R. Gupta v UOI***⁴, held that a grievance regarding erroneous fixation of pay gives rise to a recurring cause of action every month and that, therefore, the application could not be dismissed on the ground of delay. The Supreme Court held that in an appropriate case, however, the arrears paid to the applicant could be restricted to a period of three years prior to the institution of the OA before the Tribunal.

⁴ (1995) 5 SCC 628



21. We are not inclined, in the present case however, to restrict the arrears payable to the respondent as she is a woman of indigent means, and the widow of a deceased Constable. Moreover, she had addressed a representation to the petitioner on 14 July 2017 seeking parity for her husband Om Prakash and also family pension, which came to be rejected by the Delhi Police on 28 September 2017. Section 20(1)⁵ of the Administrative Tribunals Act, 1985, requires the aggrieved employee to exhaust all remedies available to her, or him, before approaching the Tribunal, and Section 20(2)(a)⁶ deems such remedies to have been exhausted if a final order is made by the Government rejecting a representation made by the employee empowers a party to treat an order to approach the Tribunal within one year of an order rejecting the representation. The respondent did address such a representation to the petitioner on 14 July 2017, and did approach the Tribunal within a year of its disposal on 28 September 2017.

22. While we should not be treated as having laid down a principle that a disposal of a grossly belated representation should, in every case, suffice to extinguish limitation, in the peculiar facts of this case, and keeping in mind the indigent circumstances and impecunious condition in which the respondent is placed, we are not inclined to

⁵ 20. **Application not to be admitted unless other remedies exhausted. –**

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—

(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance;



agree with the contention that the OA ought to have been dismissed on delay and laches.

23. For all the above reasons, and in the special facts and circumstances of this case, we are not inclined to interfere with the judgment of the Tribunal. We accordingly dismiss this writ petition.

24. We place on record our appreciation for the fairness exhibited by Mr. Anshuman, learned Senior Panel Counsel who appeared on behalf of the Delhi Police.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 21, 2025/sk

Click here to check corrigendum, if any