

LT. GOVERNOR OF DELHI AND ORS.
v.
CONST. DHARAMPAL AND ORS.

MAY 4, 1990

[B.C. RAY AND N.M. KASLIWAL, JJ.]

Services: Delhi Police—Constables—Services terminated for participating in agitation—Reinstatement of—Payment of salary—Treatment of period between termination and reinstatement—Directions issued.

The respondents, who were working as Constables in Delhi Police and whose services were terminated for participating in an agitation, filed writ petitions before the High Court, praying for quashing the order of termination, and for reinstatement, deeming them to have been in service throughout, and awarding consequential benefits. Relying on the decision of the High Court, as affirmed by the Supreme Court, in the case of some Constables, whose services were similarly terminated, the Central Administrative Tribunal, to whom the cases were transferred, held that the respondents were entitled to be deemed to have been in service.

Dismissing the appeals, by the Administration, this Court,

HELD: All the respondents should be deemed to be in service. All of them, except respondent No. 24 who has expired and whose widow has already been paid back wages, should file affidavits, stating whether they had been gainfully employed or not during the period of the termination of service and if so employed, they will state further in the affidavits the period of such employment. The appellants may verify the same and will be at liberty to deduct the pay and allowances during the period of such gainful employment while determining the arrears of salary and allowances for the period of termination. However, for the purposes of seniority, promotion and retiral benefits, the entire period between termination and reinstatement shall be taken into account. [95E-F]

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 3376-3382 of 1988.

From the Judgment and Order dated 26.11.1987 of the Central Administrative Tribunal, Delhi in T. Nos. 950, 961, 972, 986, 1049,

A 1198 of 1985 and T. No. 383 of 1986.

B.B. Barua, Aruneshwar Gupta and Ms. A. Subhashini for the Appellants.

B Juse P. Verghese, K.N. Rai and N.N Sharma for the Respondents.

The Judgment of the Court was delivered by

C RAY, J. These appeals arose out of the judgment and order dated November 26, 1987 passed by the Central Administrative Tribunal, Principal Bench, Delhi directing that the petitioners (respondents in these appeals) will be entitled to the same relief as was granted to the petitioners by Anand, J. in the writ petitions CWP Nos. 278 of 1978 and 937 of 1978.

D The matrix of the case, in short, is that the services of the respondents who were appointed as constables in Delhi Police in the years 1964-66 were terminated because of their participation in the agitation along with other police constables in April 1967. In view of the public controversy and in deference to the views expressed in Parliament, a large number of agitating constables were taken back in service as fresh entrants. Later, in view of the assurance given in the Parliament
E by the then Home Minister, prosecutions were withdrawn and the dismissed constables were reinducted into service. Some of the dismissed constables filed Civil Writ Petition Nos. 26/69 and 106/70 in the High Court of Delhi and the High Court by its judgment dated October 1, 1975 quashed the order of termination and the petitioners in that case were declared to be throughout in service. The Police
F Administration preferred separate appeals being LPA Nos. 24 and 25 of 1976. Both these appeals were dismissed as barred by time and the judgment of the High Court dated October 1, 1975 became final.

G Subsequently, some other constables whose services were similarly terminated but were not reinstated in service even as fresh entrants, filed writ petitions in the High Court of Delhi being CWP Nos. 270 and 937 of 1978. These writ petitions were heard by Anand, J. who rejected the contention raised by the respondents in the writ petitions regarding the delay and latches in moving the writ petitions, allowed the writ petitions quashing the impugned order of termination declaring that the petitioners will be deemed to have been in service
H and would be treated as such subject to certain conditions. The Police

Administration filed LPA against this judgment which was dismissed on August 29, 1983. Thereafter the respondents herein filed the writ petitions in the High Court against the order of termination of their services praying for quashing of the orders of termination and for reinstating them in service with effect from the respective dates of their termination of services and to treat them as being in service throughout and to award them all consequential benefits. These writ petitions were subsequently transferred to the Central Administrative Tribunal, Delhi. The Tribunal while rejecting the plea of the respondents that the petitioners should be denied any relief because of delay and laches held that the claims of the petitioners (respondents in these appeals) was identical to the claim of the petitioners in CWP Nos. 270 and 937 of 1978 whose petitions were allowed by the High Court of Delhi. The Tribunal further held that the petitioners were entitled to the same relief as was granted to the petitioners by Anand, J. in CWP Nos. 270 and 937 of 1978.

Against this judgment and order the instant appeals on special leave have been filed before this Court.

We have heard learned counsel for the parties. Considering the facts and circumstances as well as the judgment rendered by Anand, J. in CWP Nos. 270 and 937 of 1978, we dismiss the appeals and confirm the judgment and order dated November 26, 1987 of the Tribunal with the modification that the respondents, excepting respondent No. 24. Kanwal Singh who is dead, will file affidavits stating whether they had been gainfully employed or not during the period of the termination of service and if so employed, they will state further in the affidavits the period of such employment. The appellants may verify the same and will be at liberty to deduct the pay and allowances during the period of such gainful employment while determining the arrears of salary and allowances for the period of termination. We, however, make it clear that for the purposes of seniority, promotion and retiral benefits, the entire period between termination and reinstatement shall be taken into account.

It has been stated by the learned counsel for the appellants that all the respondents have already been reinstated in service and they are now working. The respondent No. 24, however, has expired and the back wages have already been paid to his widow. In the facts and circumstances of the case there will be no order as to costs.