

7

**Central Administrative Tribunal, Principal Bench**

**Original Application No.2908 of 2002**

New Delhi, this the 25th day of June, 2003

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

Ex. Const. Babu Lal  
S/o Shri Phali Ram  
R/o G-32, Harizan Basti  
Mandir Marg, New Delhi

.... Applicant

(By Advocate: Shri Ravikant, proxy for Shri Arun Bhardwaj)

Versus

1. Commissioner of Police  
PHQ, I.P. Estate,  
New Delhi.
2. Joint Commissioner of Police,  
Southern Range,  
New Delhi.
3. Deputy Commissioner of Police,  
West District,  
New Delhi

.... Respondents

(By Advocate: Shri George Paracken)

**O R D E R (ORAL)**

**By Justice V.S. Aggarwal, Chairman**

The applicant was a Constable in Delhi Police. While posted at Police Station, Tilak Nagar, he remained absent unauthorizedly on 7 occasions for a total period of 7 months, 6 days, 18 hours and 20 minutes. He had absented earlier also on 20 occasions. Departmental proceedings were initiated and thereupon the disciplinary authority dismissed the applicant from service. His appeal was dismissed by the Joint Commissioner of Police.

2. By virtue of the present application, the applicant assails the order of the disciplinary as well as the appellate authority.

3. During the course of submissions, learned counsel


LS Ag


8

for the applicant contended that the order passed by the appellate authority dated 16.4.2002 cannot be sustained because he has considered extraneous factors namely the comments of the disciplinary authority.

4. Learned counsel for the respondents submitted that the material considered by the appellate authority are simply the comments and cannot be considered to be extraneous material.

5. Whenever the appeal is decided, necessarily it has to be decided on the basis of material before the disciplinary authority and the material which is known to the applicant. The comments of the disciplinary authority were not known to the applicant. Therefore, it must be taken to be extraneous material because they have not been communicated to the applicant. On this short ground, therefore, we quash only the order of the appellate authority dated 16.4.2002 with a direction that the appellate authority may pass a fresh order in accordance with law ignoring the comments of the disciplinary authority.

  
( S.K. Naik )  
Member(A)

  
( V.S. Aggarwal )  
Chairman