

Central Administrative Tribunal
Principal Bench
OA 16/2002

New Delhi, this the 11th day of November, 2002.

Hon'ble Shri Kuldip Singh, Member (J)
Hon'ble Shri M.P.Singh, Member (A)

Bhawnar Singh
(2226/A)
S/o Shri Chuna Ram
R/o Vill. Bhauji Ki Dhani
P.O. Batra Mau, P.S.Laxmangarh
Distt. - Sikar (Rajasthan)

.... Applicant

(By Shri Shyam Babu, Advocate)

Versus

1. The Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat
Players' Building
I.P.Estate
New Delhi-110002.
2. Dy. Commissioner of Police
I.G.I. Airport
New Delhi.
3. Joint Commissioner of Police
Operations
Police Headquarters
ITO
New Delhi.

.... Respondents

(By Shri Ram Kanwar Dhillon, Advocate)

ORDER (oral)

By Shri Kuldip Singh, Member (J)

Heard.

The applicant in this OA has impugned the orders passed by the Disciplinary Authority as well as orders passed by the Appellate Authority, whereby the applicant was dismissed from service on 21.7.2000 after conducting a regular departmental enquiry on the allegations of unauthorised absence. He filed an appeal against the order of dismissal to the appellate

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authority. The appellate authority i.e. Joint CP/Ops., Delhi after hearing the Ex.Const. in OR on 22.11.2000 has observed that in his expression that the "Ex.Const. is not very coherent and does not appear to be fully mentally alert". And on the basis of his observations disciplinary authority has referred the applicant to the civil surgeon, Rajpur Road Hospital. The applicant was medically examined on the grounds raised in para 5K of OA and the respondents also admit that applicant was referred to civil surgeon, Rajpur Road Hospital vide letter dated 15.12.2002 though the respondents in the reply admitted that the appellate authority have gone through the relevant records and has come to the conclusion for dismissal of appeal. The appellate order does not show at all if the medical condition of the applicant was ever taken note by appellate authority after the applicant was referred to civil surgeon, Rajpur Road Hospital.

On our querry the respondents were also unable to show any records showing about the medical condition of the applicant after he had been referred to Civil Surgeon, Rajpur Road, Hospital. If that was the case, then probably he would not have been represented properly during the departmental enquiry proceedings. Since there is observation and the appellate authority itself that during the hearing of the appeal that the applicant was not coherent and was not mentally alert, so the order of appellate authority has to be quashed and same has to be remanded back to the respondents.

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Hence, we hereby quash the impugned order after taking note of the fact that the mental condition of the applicant as opined by the civil surgeon, Rajpur road Hospital to whom the applicant was referred vide letter dated 15.12.2000 has not been discourse. The appeal may be decided within a period of 3 months from the date of receipt of the copy of this order, after taking note of the mental condition as per medical opinion given by the Rajpur Road Hospital. The applicant will be at liberty to approach this court, again, if he is still aggrieved. No costs.


(M.P.Singh)
Member (A)


(Kuldip Singh)
Member (J)

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