

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1203/2002

New Delhi, this the 12th day of September, 2002

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

Vijender Kumar
343/G-22, Sector 7
Rohini, Delhi Applicant

(Shri Sama Singh, Advocate, through proxy counsel Shri
Bhawani Shanker)

versus

1. Chief Secretary
Govt of NCT of Delhi
Delhi
2. Commissioner of Police
Delhi Police Hqrs.
IP Estate, New Delhi
3. Addl. Commissioner of Police
PCR & Communication, Delhi
4. Addl. Dy. Commissioner of Police
Police Control Room, Delhi Respondents

ORDER

Shri M.P. Singh, Member(A)

The applicant while posted as Constable in New Delhi Zone/PCR had absented himself on various occasions between 25.3.99 and 6.4.99. Besides he was also running on medical rest w.e.f. 7.4.99 and was due back to resume duty on 23.4.99. On 12.4.99, Inspector, New Delhi Zone/PCR had ordered for applicant's re-medical and he was directed to attend the office on 15.4.99 for re-medical examination. Applicant did not turn up and he was marked absent. Applicant was directed to resume duty immediately failing which suitable disciplinary action would be taken against him. However applicant joined duty vide DD No.27 dated 3.8.99 after absenting himself for a period of 110 days 5 hours and 5 minutes willfully, unauthorisedly even without any intimation/permission of the competent authority.



2. A departmental enquiry was ordered against the applicant under Delhi Police (Punishment & Appeal) Rules, 1980 and he was informed accordingly. As the applicant did not cooperate with the enquiry proceedings and remained absent, an ex-parte enquiry was held and the Inquiry Officer (IO) concluded on 30.1.2000 that the charge of unauthorised absence ^{of} ~~of~~ the applicant was proved. A copy of the enquiry report was served on the applicant to make his representation. Neither the applicant sent his representation to the findings of EO nor did he appear in OR on 6.3.2000 despite notice having been given to him on 4.3.2000. Thereafter, based on the evidence on record the disciplinary authority (DA) vide its order dated 15.3.2000 imposed upon the applicant punishment of dismissal from service and the period of applicant's unauthorised absence was ordered to be treated as 'dies non'. The applicant preferred an appeal on 19.5.2000. The appellate authority, after considering the appeal of the applicant in the light of facts and circumstances of the case and evidence on record and also after hearing the applicant in person on 29.6.2001, rejected the appeal of the applicant, vide its order dated 4/6.7.2001. Aggrieved by this, the applicant is before us seeking directions to quash and set aside the orders dated 15.3.2000 and 4/6.7.2001.

3. We have heard the applicant's counsel and perused the records.

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4. Though the applicant has taken a variety of grounds in support of the reliefs prayed for by him, we are unable to agree with the same in view of the fact the enquiry has been conducted in accordance with law and rules on the subject and the same does not suffer from any infirmity. The applicant was given reasonable opportunity to defend himself which he had failed to avail; that apart he also failed to appear in OR before the disciplinary authority for the reasons best known to him. It is a settled legal position that the Tribunal cannot reappreciate the evidence adduced before the enquiry proceedings. We also find that both the disciplinary and appellate authorities have passed detailed, reasoned and speaking orders and the same do not warrant Tribunal's interference.

5. In view of the above position, the present OA fails on merit and is accordingly dismissed in limine. No costs.

M.P. Singh
(M.P. Singh)
Member(A)

Kuldeep Singh
(Kuldeep Singh)
Member(J)

/gtv/