

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2777/2002

New Delhi, this the 29th day of August, 2003

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.K. NAIK, MEMBER (A)

Shri Jal Singh,
Constable No. 333-DAP
S/o Shri Badan Singh,
R/ House No. 17,
Village & P.O. Maroli,
Tehsil Hodal,
District Faridabad (Haryana)

.... Applicant

(By Advocate : None)

Versus

The Commissioner of Police,
Delhi Police,
Police Headquarters,
Inderprastha Estate,
New Delhi

... Respondent.

(By Advocate : Mrs. P.K. Gupta)

O R D E R (Oral)

BY HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN :

The applicant was a Constable in Delhi Police. By virtue of the present application, he seeks quashing of the order dated 16.8.1985 removing him from service and further a direction to reinstate him on duty with full back wages and consequential benefits.

2. Some of the relevant facts are that the applicant faced a departmental enquiry on the ground that while posted in Ist Battalion, Delhi Armed Police, he was advised to avail three days medical rest by the Medical Officer, C.G.H.S. Dispensary, New Police Lines, from 27.2.1984 to 29.2.1984. The applicant was to join duty after obtaining medical fitness certificate on 1.3.1984, but he remained on

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unauthorised absence till 9.3.1984. He was arrested in case FIR No. 99 dated 9.3.1984 and another FIR No.103 dated 9.3.1984 pertaining to offences punishable under Sections 25/54/59 of Arms Act, P.S. Civil Lines, Delhi.

3. The departmental enquiry was entrusted to Inspector Richhpal Singh who held the charges of unauthorised absence were proved. Agreeing with the findings of the enquiry officer, the disciplinary authority passed the order removing the applicant from service on 16.8.1985.

4. When the matter has been listed on 1.8.2003, there was no appearance on behalf of the applicant. The position once again is the same. In these circumstances, we deem it unnecessary to again adjourn the matter.

5. We have gone through the record with the help of the respondent's counsel.

6. The applicant has assailed the said order removing him from service dated 6.8.1985 contending that the authorities should have awaited for the decisions in the criminal cases. He stated that he has been acquitted in FIR 40/83 P.S. Civil Lines. Since he has been acquitted, therefore, in accordance with Rule 12 of Delhi Police (Punishment & Appeal) Rules he could not have been removed from service.

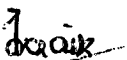
7. In the reply filed, the application has been contested.

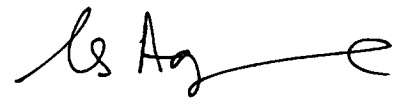
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8. Some of the salient facts which cannot be ignored are that the applicant had been removed from service, as we have already referred to above, on 16.8.1985. He did not prefer any appeal against the said order. In other words, he had not exhausted the remedies available in law and therefore, he could not have filed the present application without exhausting the remedies available. Keeping in view Section 20 of the Administrative Tribunals Act, the present application must be held not maintainable.

9. Keeping in view the aforesaid, it is unnecessary for us to express on the merit of the matter. Resultantly the OA must fail and is dismissed.


(S.K. NAIK)
MEMBER (A)


(V.S. AGGARWAL)
CHAIRMAN

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