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Central Administrative Tribunal, Principal Bench

Original Application No.2641 of 2002

New Delhi, this the 11th day of August, 2003

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

Om Parkash
Constable of Delhi Police
(PIS No.28900126)
R/o V & PO:- Shikoh Pur
Dist. Gurgaon, Haryana

.... Applicant

(By Advocate: Shri Anil Singal)

Versus

Joint Commissioner of Police
Southern Range, PHQ,
IP Estate, New Delhi

.... Respondents

(By Advocate: Shri Ajay Gupta)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Constable in Delhi Police. He was proceeded departmentally for his absence from duty. Since the controversy has come within a very narrow compass, we are not dwelling into the other detailed facts. Suffice to say that in the departmental proceedings that were initiated against the applicant, a penalty of removal from service was imposed. The applicant preferred an appeal and the Joint Commissioner of Police, while accepting the same, passed the following order:

"The appeal of the appellant is accepted and the punishment order of the disciplinary authority is set aside. However, period of absence may not be treated on duty and the appellant should be granted Extra Ordinary Leave (without pay) for the period of absence. This however may not be considered a break in service. The period from the date of issue of this order to the date of joining of duty may be treated as leave of the kind due."

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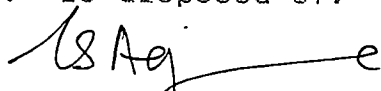
2. The applicant contends:

- (a) the period for which the appellate authority states that it shall not be considered a break in service should be considered for pensionary benefit; and
- (b) there is no order that has been passed with respect to the period when applicant was dismissed from service till he joined his duty.

3. So far as the first part of the argument is concerned, perusal of the order passed by the appellate authority (Joint Commissioner of Police) clearly indicates that there is no break in service or in other words, continuity of service is being accepted. Once it is so, it can certainly ^{as per rules} be considered for the pensionary benefits claimed.

4. As regards the second contention, indeed it would have been better and in fact was proper that an order should have been passed with respect to the period when applicant was dismissed till he re-joined. This would be within the domain of the appellate authority to pass such an order and accordingly subject to what we have recorded above, the Joint Commissioner of Police may pass a supplementary order with respect to the period when the applicant was dismissed from service till he rejoined, in accordance with Fundamental Rule 54. O.A. is disposed of.


(S.K. Naik)
Member (A)


(V.S. Aggarwal)
Chairman.