

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1405/2001

New Delhi, this the 18th day of July, 2001

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Ex. Constable Dharambir Singh No.6023/DAP
Son of Shri Sarjan Singh, R/o Village-Kondli
P.S.Kalyan Puri, Delhi - 110096.
.....Applicant

(By Advocate Shri Arvind Pandey)

V E R S U S

1. Administrator of Delhi through
Commissioner of Police, Delhi
Police Head Quarters, M.S.O. Building
I.P.Estate, New Delhi.
2. Additional Commissioner of Police/
A.P. Delhi, D.A.P. Lines at Kingsway Camp,
Delhi.
3. Deputy Commissioner of Police/1st Bn.DAP
D.A.P. Lines at Kingsway Camp, Delhi.
4. Shri R.C.Thakur, ACP/Enquiry Officer
through D.C.P./H.Qr. Police Head Qrs.
M.S.O. Building, I.P.Estate
New Delhi.

.....Respondents

(None present)

O R D E R (ORAL)

By Hon'ble Shri Shanker Raju,

Shri Arvind Singh, learned counsel for the
applicants seeks disposal of this OA at the admission
stage itself, without issuing the notices to the
respondents.

2. Briefly stated the applicant has been
charged with remaining absent for a period of 45 days
and also 12 instances of his past absentecism have
been relied upon to prove the charge of habitual
absenteeism. We have perused the summary of allegation
as well as the charge where there is no reference to
absence of the applicant w.e.f. 23-2-1998 for a

period of 45 days. The disciplinary authority while issuing an order of punishment of dismissal has taken into consideration his absence from 23-2-1998 for a period of 45 days. The same has not at all been incorporated as a charge either in the summary of allegation or in the charge framed against him. Rule 16 (xi) of the Delhi Police (Punishment & Appeal) Rules, 1980 provides that if it is considered necessary to award a severe punishment to the defaulting officer by taking into consideration his previous bad record, in which case the previous bad record shall form the basis of a definite charge against him and he shall be given opportunity to defend himself as required by rules. Apart from rule 16(xi) *ibid.* Rule 16 (ix) provides that if a new charge framed against a Police official, he has to be given an opportunity to deny the same and also to be accorded an opportunity to effectively defend himself. In our view the illegality is apparent on the face of the orders and there is no need for seeking any clarification or reply from the respondents. The consideration of extreneous matter by the disciplinary authority has been reflected from the order passed removing the applicant on 8-12-1998.

3. In view of the matter, we are satisfied that the disciplinary authority while passing all order of punishment has taken into consideration the findings the extreneous material without, putting it to the applicant. This is in violation of the principle of natural justice and rules provide under the Delhi Police (P&A) Rules, 1980.