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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2392/2001

New Delhi this the 1st day of April, 2002

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Kuldip Singh, Member (J)

Jai Parkash
S/o Shri Jai Dayal,
R/o Village Harevli,
P.O. Sewa Ashram,
P.S. Narela, Delhi.

-Applicant

(By Advocate: Shri V.P. Trikha)

Versus

1. The Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi-110002.
2. The Addl. Commissioner of Police,
Armed Police,
New Police Lines, Kingsway Camp,
Delhi-110009.
3. Dy. Commissioner of Police,
3rd Batalian, DAP,
Vikaspuri, Delhi-110018.

-Respondents

(By Advocate: Shri Ram Kanwar)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

The applicant was awarded punishment of dismissal from service for remaining absent from duty from 3.9.98 to 18.8.99. Thereafter vide appellate order dated 29.12.2000, the quantum of punishment imposed upon the applicant was held to be disproportionate by the appellate authority and taking a lenient view in the matter, the punishment of dismissal from service was modified to removal from service. The learned counsel of applicant stated that whereas there is no quarrel about admission of charge levelled against the applicant regarding absence from duty from 28.8.98 to 18.8.99, he is seeking only

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re-consideration regarding quantum of punishment because appellate authority unnecessarily and illegally imported an extraneous factor that the applicant had remained absent on 29 different previous occasions and thereby widened the scope of the charge against the applicant.

2. The learned counsel of the respondents stated that whereas the disciplinary authority had not taken into consideration applicant's absence on 29 previous occasions, the appellate authority had come to a conclusion that wilful unauthorised absence for a long period of over 11 months is not tolerable in the police force and thus the punishment of removal from service was passed by the appellate authority by way of a lenient view in the matter.

3. From the charge levelled against the applicant, we find that absence on previous 29 occasions had not been incorporated at all. The appellate authority had taken that into consideration. In case he had not taken that into consideration and if he had taken the absence of 11 months and 15 days only into consideration, the quantum of punishment would certainly have been different than the removal from service. In the interest of justice, we find that it is necessary that the case is remanded to the appellate authority to re-consider the matter relating to quantum of punishment without taking into consideration applicant's absence on 29 previous occasions. The appellate order Annexure A-1 dated 29.12.2000 is quashed and set aside. Appellate authority is directed to pass a fresh and reasoned order without taking into consideration

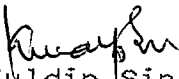
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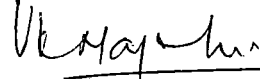
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applicant's past absences within a period of two months from the date of communication of these orders. The applicant should also be given an opportunity of hearing.

4. The OA is disposed of as above. No costs.


(Kuldip Singh)
Member (J)


(V.K. Majotra)
Member (A)

CC.