

Central Administrative Tribunal
Principal Bench

O.A. No. 2679 of 2001

New Delhi, this the 5th March, 2003

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. A.P. NAGRATH, MEMBER (A)

Ved Pal Singh,
Ex. Constable No. 1131/SW,
S/o Shri Hoshiar Singh,
R/o Vill. & P.O. Makrana,
Charkhi Dadri,
Distt. Bhiwani (Haryana)

(By Advocate: Shri Sama Singh) ... Applicant

Versus

1. Govt. of NCT of Delhi,
through its Chief Secretary
2. Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P.Estate,
New Delhi-2
3. The Joint Commissioner of Police,
(Southern Range),
MSO Building,
I.P. Estate,
New Delhi-2.
4. Addl. Dy. Commissioner of Police,
South West District,
Hauz Khas,
New Delhi.

(By Advocate: Shri George Paracken) Respondents.

ORDER (Oral)

Justice V.S. Aggarwal

The applicant was a Constable in Delhi Police. By virtue of the order passed by the Addl. Dy. Commissioner of Police, South West Distt. Delhi on 18.5.98, the applicant had been removed from service. He preferred an appeal which was dismissed by the Joint Commissioner of Police.

2. The argument of the learned counsel for the

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applicant in this regard is that the disciplinary authority has taken into consideration the past record of the applicant which was not a part of the charge and, therefore, his removal is based on extraneous factors.

3. To appreciate the said argument, we refer to the charge which had been framed against the applicant, as under -

"It is an evidence against you Constable Ved Pal No.1131/SW (PIS No.28820338) that you while were posted at PS Sarojini Nagar, New Delhi, were detailed for picket duty in West Kidwai Nagar on 21.2.96 but you did not report for duty and was marked absent vide DD No.30 B dt.21.2.96..

It is also an evidence against you Ct. Ved Pal that an absentee notice was sent to your native place at Vill.Makrana, Distt.Bhiwani(Haryana) with the direction to record duty at once otherwise strict disciplinary action would be initiated against you but you did not care for it and wilfully unauthorisedly remained absent since then. It is also an evidence against you Constable. Ved Pal No.1131/SW that previously you also remained absent from duty unauthorisedly on 21 occasions.

I, Inspector Jagdev Singh, DE Cell, PS Defence Colony, New Delhi, the E.O., therefore, charge you Constable Ved Pal No.1131/SW that above mentioned acts on your part speaks of your habitual absentism in total disregard of your official duties and your indisciplined attitude. This amounts to gross misconduct and your unbecoming of a Govt. servant and have your are liable to be punished under the provisions of Delhi Police (Punishment & Appeal) Rules1980."

4. The disciplinary authority had not only taken into consideration the said absences but also his

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earlier record of absenting from duty which is as under-

"Even after that he remained absent on the following occasions subsequently:-

i) 1.9.96 to 18.1.97	- 140 days
ii) 21.7.97 to 4.8.97	- 14 days
iii) 6.11.97 to 9.11.97	- 2 days & 12 hours.
iv) 7.9.97 to 7.10.97	- 29 days 14 hours
v) 30.11.97 to 12.2.98	- 75 days.

He is still running absent w.e.f. 9.5.98."

5. The settled principle of law is that while imposing any punishment on a delinquent, extraneous factors which are not the part of charge cannot be taken into consideration. This is so because in that event the applicant was deprived of a fair opportunity to contest in this regard.

6. Once the Disciplinary Authority had taken into consideration the extraneous factors unnecessarily, the impugned order cannot be sustained because the same factors occur in the said order of the ^{appellate} disciplinary authority.

7. Resultantly, we allow the O.A. and quash the impugned orders. The disciplinary authority may, if so advised, pass a fresh order or take any other action in accordance with law from the stage the impugned order dated 18.5.98 was passed.

Amrit P
(A.P. Nagrath)
Member (A)

/ug/

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(V.S. Agarwal)
Chairman