

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 3072/2001

This the 29th day of April, 2002.

(10)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Bhagat Singh,
Ex. Constable of Delhi Police
PIS No.28930640,
R/O Vill. & PO Neemka, P.S.Jewar,
Distt. Gautam Budh Nagar (UP). ... Applicant

(By Shri Anil Singal, Advocate)

-versus-

1. Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi.
2. Addl. Commissioner off Police,
Armed Forces, PHQ,
I.P.Estate, New Delhi.
3. D.C.P. (6th Bn. DAP)
through Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi. ... Respondents

(By Ms. Jasmine Ahmed, Advocate)

O R D E R (ORAL)

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

Applicant has challenged the punishment of removal from service in disciplinary proceedings against him on the allegations that he had absented himself wilfully and unauthorisedly from 4.5.1999 to 23.6.1999. Learned counsel of applicant stated that respondents had issued the applicant an absentee notice dated 19.5.1999 directing that if he did not resume his duty at once, the disciplinary action would be initiated against him. This notice, according to applicant, was received by him

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on 23.6.1999 and he resumed his duty on 24.6.1999, i.e., the very next day of receipt of the absentee notice. Learned counsel stated that in terms of the said absentee notice as the applicant had resumed his duty immediately, no disciplinary action could be initiated against him. Learned counsel further stated that respondents have also taken into consideration extraneous charges not included in the charge-sheet, such as, alleged previous and future absences of applicant.

2. Respondents have not denied the factum of receipt of the absentee notice by applicant on 23.6.1999 and resumption of duty by applicant on 24.6.1999, i.e., the very next day of receipt of the absentee notice. In this view of the matter, when applicant joined his duty immediately on receipt of the absentee notice, respondents were not justified in initiating the disciplinary action against him. We have also gone through the charge levelled against applicant and we find that previous and future absences from duty which were taken into consideration while imposing punishment on the applicant in disciplinary proceedings were not incorporated in the charge against applicant. In our view, respondents were not justified in taking into consideration the previous and future absences of applicant while imposing punishment upon the applicant.

3. Having regard to the reasons recorded and discussion made above, impugned orders made and punishment imposed upon applicant are held to be

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arbitrary, unjustified and in violation of the principles of natural justice. Accordingly, impugned order imposing punishment on the applicant and the punishment of removal from service are quashed and set aside with consequential benefits as per rules. Besides, in the interest of justice, we direct respondents to pay cost of Rs.2,000/- (Rupees two thousand only) to applicant.

4. We are further constrained to observe that the disciplinary authority in this case has initiated the disciplinary proceedings in a most reckless manner. Even the disciplinary authority had not bothered to note the contents of its own absentee notice which, *inter alia*, provided the failing clause that in case the applicant did not report for duty, only then disciplinary action would be taken up against applicant. Disciplinary enquiry was initiated despite the fact that within 24 hours of receipt of notice applicant had joined the duty and thus complied with the notice. Disciplinary authority thus was not left with any option to initiate disciplinary enquiry.

5. In the similar manner the appellate authority also ignored this clause and has forced this litigation upon applicant, who had complied with the absentee notice. Had these facts been taken care of, unnecessary expenditure by applicant would have been avoided. These observations be brought to the notice of concerned Secretary, i.e., Secretary to Government of India, Ministry of Home Affairs.

6. The OA is disposed of in the above terms. No costs.


(Kuldeep Singh)
Member (J)

/as/


(V. K. Majotra)
Member (A)