

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.1487/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 21st day of November, 2000

Smt. Sunita Kumari  
w/o Shri Sunil Dutt Sharma  
r/o C-138, Maharana Pratap Enclave  
Pitampura  
Delhi - 110 034.

... Applicant

(By Shri B.S.Charya, Advocate)

Vs.

1. The Commissioner of Police  
Police Headquarters,  
MSO Building  
New Delhi.
2. The Deputy Commissioner of Police  
3rd Bn. Delhi Armed Police (DAP)  
Vikaspuri  
New Delhi.

... Respondents

(By Shri Harvir Singh, Advocate)

O R D E R (Oral)

Justice V. Rajagopala Reddy:

A departmental enquiry was initiated against the applicant who was a Woman Head Constable on the allegation that she did not resume duty after the expiry of her leave on 25.9.1996 till the enquiry was initiated on 7.2.1997. The enquiry was entrusted to an enquiry officer, who submitted the report holding that the allegations were proved. The disciplinary authority agreeing with the findings of the enquiry officer, dismissed the applicant from service by order dated 29.7.1997. Her appeal and revision were however rejected. The instant OA was filed questioning the order of punishment.

2. The learned counsel for the applicant, Shri B.S.Charya, submits that from the date of birth of her child, the child was suffering from Pneumonia which necessitated her to continue on leave. She also developed complications during that period concerning of her own health. Meanwhile, the second child was born who also developed complications, and despite continuous efforts to save the child it could not saved and ultimately expired on 23.10.1998. Due to the complications developed in the health of her children the applicant was disturbed in mind and hence she could not attend office. It is contended by the learned counsel that the enquiry officer without serving the documents, an ex-parte enquiry was held. It is also contended that the enquiry officer has declined to consider the leave applications and the medical certificates.

3. The learned counsel for the respondents, however, submits that an ex-parte enquiry had to be conducted as the applicant had refused to receive the documents and also participate in the enquiry. The applicant was removed from service on the basis of the evidence on record.

4. We have given careful and anxious considerations of the points raised in this case. From the allegations made in the OA it appears that the applicant had to go through a very difficult stage in her life. But we do not find any justification for the applicant not to have received the documents and other notices which were sought to be served upon her. We have perused the original records as well as the

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enquiry officers' report. We find that the enquiry officer had made sincere efforts to serve the notices upon the applicant, the material documents in this case, and the notices for enquiry through registered post as well as by messengers, but the applicant had refused to receive them. We do not really understand the reason behind the applicant's attitude in this case. If her children were unwell the applicant could have given the leave applications for leave endorsing the medical certificate in accordance with the rules. It is clear from the record that she has been asked to send her applications for leave with medical certificates, but no reason she refused to do so. It is seen that no leave was sanctioned after 25.9.1996 but she remained absent. No application for leave or medical certificate were ever received by the department. For more than one year she was absent. She did not participate in the enquiry. In fact, the absence of the applicant is admitted in this case. The respondent cannot be said to have given any consideration as to the difficulties which she was suffering from and the reason for her absence as she has refused to apply for leave on the grounds of the children's ill health. We do not, therefore, find any substance in the argument of the learned counsel for the applicant that the enquiry officer had not taken into consideration the problems that the applicant was facing in coming to his conclusion.

5. As to the gravity of penalty, we do not find any scope for interference. The disciplinary authority found that the applicant was absolutely unfit for retention in the police service. The

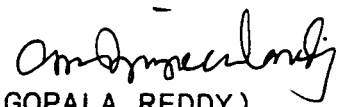
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appellate authority also considered this aspect and agreed with the findings of the disciplinary authority. The revisional authority has also gone into this aspect. 10

6. In the circumstances, the OA fails and is accordingly dismissed. No costs.

  
(GOVINDAN S. TAMPI)  
MEMBER(A)

/RAO/

  
(V. RAJAGOPALA REDDY)  
VICE CHAIRMAN(J)