

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2183/1999

New Delhi this the 15th day of January, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Ex.Asstt.Sub-Inspector Kehar Singh  
S/o Shri Bharat Singh  
R/O Police Station Kharkhoda  
District Sonipat  
Haryana.

... Applicant

( By Shri Rajeev Kumar, Advocate )

-versus-

1. Union of India through  
its Secretary  
Ministry of Home Affairs  
North Block, New Delhi.
2. Commissioner of Police  
Police Head Quarters, I.P.Estate  
M.S.O. Building  
New Delhi.
3. Joint Commissioner of Police  
Southern Range  
Police Head Quarters, I.P. Estate  
M.S.O. Building, New Delhi
4. Addl. Dy. Commissioner of Police (I)  
South District  
Police Station Hauz Khas  
New Delhi.

... Respondents

(By Mrs. Meera Chhibber, Advocate)

O R D E R (ORAL)

Shri S.A.T. Rizvi, Member (A):-

On the allegation of absence from 21.7.1996  
onwards, the applicant in this OA, an Assistant Sub-  
Inspector, has been charged in the following terms:-

"I, K.S.Bedi, ACP/Greater Kailash charge  
you ASI Kehar Singh No.2981/D under the  
provision of Delhi Police (Punishment and  
Appeal) Rules, 1980, for your gross  
mis-conduct, negligence and professional  
incompetence in the discharge of your official  
duties.

On 21.7.1996, you ASI Kehar Singh No.2981/D  
(PIS NO.28640162) that while posted at  
P.P.Sarita Vihar, P.S. Badarpur South Distt.

were instructed to go to Tond (Rampur) in U.P. to collect vehicle car No.DNC-2157 stolen vide case FIR No.368/94 u/s 379 IPC, P.S. Badarpur. You proceeded to Tond (Rampur) U.P. vide D.D. No.25 dated 21.7.1996, P.P. Sarita Vihar but you did not turn up till 3.8.96 from there. On 4.8.96 HC Naresh Kumar No.568/SD of P.P. Sarita Vihar was sent to your native village Gopalpur, Distt. Sonapat (Haryana) where you met him and informed that you had lost the case file somewhere and you did not proceed to Tond (Rampur) U.P. You assured HC Naresh Kumar that you would come to P.S. next day but you did not turn up. As such you were marked absent vide D.D. No.19 dated 18.8.1996, P.P. Sarita Vihar. You are still running absent from Govt. duty since then."

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The disciplinary proceedings have been undertaken based on the aforesaid charge and these have concluded in an order of dismissal from service passed against the applicant on 4.3.1998. This order has been affirmed by the appellate authority in its order dated 10.9.1998. Aggrieved by these orders and also by the findings recorded by the enquiry officer, the applicant has filed this OA.

2. The learned counsel appearing in support of the OA has raised contentions with regard to Rule 18 (1) of the Delhi Police (Punishment and Appeal) Rules, 1980 (hereinafter referred to as the Rules), the illness of the applicant and his unblemished record of service extending to about 34 years.

3. Referring to Rule 18(1) of the Rules, the learned counsel contends that on the basis of the Postal Department's endorsement "not found" on the notices sent to the applicant by the respondents, it cannot be argued that the applicant could not be found in terms of the provisions of aforesaid Rule. Thus,

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according to him, the ex-parte proceedings undertaken against him are violative of the aforesaid Rule.

4. The learned counsel for the respondents has, by interpreting the same rule, argued, on the other hand, that the ex parte proceedings would still be in order if it is found that despite notice to attend the departmental proceedings, the defaulter is evading service or is refusing to attend the same without due cause. The learned counsel has placed before us, the original file pertaining to the departmental proceedings, a perusal of which, shows that the respondents made sufficient attempts to serve the summary of allegations, chargesheet and the findings of the enquiry officer on the applicant. The aforesaid original record for instance specifically reveals that the summary of allegations together with the list of documents and witnesses was duly served on the son of the applicant who was duly briefed to make available the aforesaid documents to the applicant. The learned counsel for the respondents has further contended that, at least on one occasion, the aforesaid documents were served personally on the applicant also and that was on 16.5.1997. The facts aforestated clearly rebut the theory of non-service built up by the applicant. We thus find that it is precisely in terms of the provisions of the aforesaid Rule 18(1) that the respondents have correctly proceeded and have tried the applicant departmentally on ex parte basis. The applicant has clearly evaded

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service of summons and has also, in our view, even refused to attend the proceedings and for this he has never been able to show due and sufficient cause.

5. As regards the illness of the applicant, it is admitted that he was seeking treatment from a hospital located in Najafgarh and was during the course of his illness commuting between his native village and Najafgarh. He was, therefore, according to us, fit enough to attend the departmental proceedings and, at any rate, to keep the disciplinary authority informed about his illness in a timely manner. The learned counsel for the applicant has relied on two letters both dated 26.7.1997, one sent by the son of the applicant and the other by his brother-in-law stating therein the facts regarding the illness of the applicant. From the pleadings contained in the OA, it is not clear as to whom the aforesaid letters were sent and whether these were received by the respondents at all. The learned counsel appearing for the respondents contends that the said letters were never received in the office of the respondents. Again admittedly the aforesaid letters or for that matter the applications seeking grant of leave on medical grounds were received in the office of the respondents, if at all, only after the order of dismissal had been passed. In the circumstances, the plea advanced by the learned counsel for the applicant that the applicant remained unwell throughout the course of the departmental proceedings is found to be untenable and is rejected.

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6. Lastly, the learned counsel for the applicant has pointed out that the applicant has served Delhi Police for 34 years approximately without blemish and, therefore, the punishment of dismissal inflicted upon him would seem to be rather excessive. We have, in order to appreciate the aforesaid contention, perused the order passed by the disciplinary authority. This is what he has<sup>to</sup> say in regard to the quantum of punishment:-

" His non-submission of representation itself shows that he does not want to defend his case. Such indisciplined and unruly conduct as shown by the defaulter ASI is inconsistent with the due discharge of his duties in a disciplined force. The defaulter ASI is still running absent. It is discernible that the behaviour of the defaulting officer shows continuing misconduct indicating incorrigibility and complete unfitness for police service. I therefore have no hesitation in dismissing him from service."

We find that the quantum of punishment is really based on the disciplinary authority's satisfaction carefully arrived at that the delinquent officer's misconduct indicated incorrigibility and complete unfitness for police service. That being so, we are inclined to agree with the quantum of punishment imposed by the said authority. The aforesaid order of the disciplinary authority has been carried in an appeal and we find that the appellate authority has affirmed the dismissal order after proper and due consideration of the matter.

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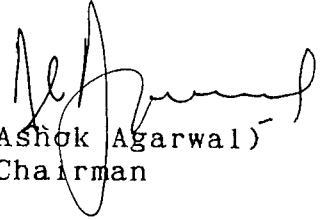
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7. In the background of the above discussion,  
we find that the OA has no force and deserves to be  
and is dismissed. No costs.



(S.A.T. Rizvi)  
Member (A)

sns



(Ashok Agarwal)  
Chairman