

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 2393/99

New Delhi: this the ^{1st} day of February, 2001.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Ex. Constable Ajit Singh (No. 4496 DAP),
S/O Shri Mansa Ram,
R/o - Vill & PO Daria Pur Kalan,
Delhi-39

.....Applicant.

(By Advocate: Shri U. Srivastava)

Versus

Govt. of NCT, Delhi

through

1. The Secretary,
Govt. of NCT Delhi,
5 Sham Nath Marg,
New Delhi.

2. The Commissioner of Police,
Police Headquarters, Indra Prastha Estate,
New Delhi.

3. The Deputy Commissioner of Police,
5th Bn, DAP,
Delhi.

.....Respondents.

(By Advocate: Mrs. Meera Chhibber)

ORDER

S.R. Adige, VC(A):

Applicant impugns the disciplinary authority's order dated 1.10.97 (Annexure-A/1) and prays for reinstatement with all consequential benefits.

2. Applicant was proceeded against departmentally vide order dated 22.11.96 (copy not filed) for continued wilful and unauthorised absence from duty from 6.5.95 despite the despatch of several absentee notices.

3. Eventually applicant rejoined duty on 28.11.96 after absenting himself from duty for a period of over 569 days.

4. The Enquiry Officer in his findings (page 21 to 23 of OA) held the charge of wilful and unauthorised



absence from duty for a period of over 569 days as proved.

5. A copy of the aforesaid findings was served on applicant on 9.6.97 (Annexure-A/4) for representation, if any.

6. Despite more than one opportunity given to him, applicant did not submit any representation.

7. Thereupon after going through the Enquiry Officer's findings and the other materials on record, the disciplinary authority agreed with the findings of the EO and by impugned order dated 1.10.97 dismissed applicant from service.

8. Applicant claims in para 4.11 of the OA that he submitted appeal to respondents which has not been disposed of as yet. A copy of the appeal said to have been submitted which is dated October, 1997 (Annexure-A/6), as also another one dated 22.9.98 (Annexure-A/7) have been filed, but respondents in their reply under 'Brief Facts' categorically deny that applicant even filed any appeal, and contend that the OA is fit to be dismissed because applicant has made wrong and misleading statements in his OA. In their reply to para 4.11 of the OA also respondents categorically deny having received any appeal and state that the appeal alleged to have been submitted (Annexure-A/6) is false and misleading.

9. Applicant in his rejoinder has not categorically rebutted these specific averments of respondents made in their reply and his rejoinder to their specific averments are vague and evasive. During hearing also this point was specifically raised by respondents' counsel Mrs. Chhibber, and applicant's counsel Shri U.

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Srivastava was unable to furnish any materials to establish that applicant had indeed submitted any appeal against the disciplinary authority's impugned order as claimed by him.

10. While prima facie this initial objection taken by respondents would itself have been sufficient to warrant dismissal of the OA, in view of the fact that applicant has been dismissed from service resulting in loss of livelihood, we do not dismiss the OA on this ground alone. Instead in the interest of justice we dispose of this OA without adjudicating the same on merits, with a direction to respondents in the first instance to dispose of the appeal-petition claimed to have been filed by applicant in October, 1997 on merits after condoning the delay, if any, by a detailed speaking and reasoned order under intimation to applicant within 4 months from the date of receipt of a copy of this order, if any grievance survives thereafter, it will be open to applicant to agitate the same in accordance with law, if so advised.

11. The OA is disposed of in terms of paragraph 10 above. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige

(S. R. ADIGE)
VICE CHAIRMAN (A).

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