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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2456/1999

New Delhi this the 18th day of November, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Gulab Singh S/O Maha Singh,
R/O V. & P.O. Gumar,
Distt. Sonapat, Haryana.

... Applicant

(By Ch. Duli Chand Malik, Advocate)

-Versus-

1. Commissioner of Police, Delhi
Police Headquarters,
Indraprastha Estate,
New Delhi.

2. Govt. of N.C.T. of Delhi
through its Chief Secretary,
5, Sham Nath Marg,
Delhi-110054.

3. Shri Naresh Kumar,
Dy. Commissioner of Police,
111rd Bn., DAP, Pritam Pura,
Delhi.

... Respondents

O R D E R (ORAL)

Shri R. K. Ahooja, AM :

The applicant who was a Constable in Delhi Police has challenged the order of the disciplinary authority imposing the punishment of removal from service on him on the charge of absence from duty. The contention of the applicant is that he had not wilfully absented himself but had fallen sick and had also sent ^{a leave} application duly supported by medical certificate.

2. We have heard the counsel. The learned counsel submits that the applicant could not be punished for his absence since he had fallen sick and

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sent an application supported by medical certificate. He further submits that ^athe messenger came to serve the absentee notice but no direction was given to him to appear before the C.M.O., Sonapat for a medical re-examination. It has also been urged by the learned counsel that imposition of the major penalty of removal from service after rendering 12 years' service is disproportionate and harsh and not commensurate with the alleged misconduct.

3. Having carefully considered the contention advanced on behalf of the applicant and having gone through the record, we find that there is no scope for interference. Applicant was admittedly absent during the alleged period. The explanation advanced regarding the medical certificate ^{did} ~~has~~ not ^{found} ~~found~~ favour with the disciplinary authority. According to the department, the applicant had been advised to appear for a second medical examination before the C.M.O., Sonapat. Even though the applicant denies having received any such direction, it has come on record that a messenger from the department had gone to the house of the applicant to serve the absentee notice on him. In view of this position, it stands to reason that the direction of the department regarding second medical opinion would also have been intimated to the applicant.

4. We also find that there were ^{extra} ~~a~~ charges against the applicant of having absented himself on fifty earlier occasions on account of which the

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applicant also had been given punishments. It was contended by the learned counsel that since those periods of absence were regularised, the same could not be taken into account while imposing the punishment on the applicant. While it is true that if the period of absence is regularised in whatever manner, including leave without pay, no punishment on that basis can be awarded, nevertheless the period of absence and the punishment imposed on that account can be taken into account for the purpose of determining the quantum of punishment in the subsequent misconduct. It is not denied that the applicant had been absent on earlier occasions where punishment on that account was also imposed upon him. Therefore, the disciplinary authority was well within its right to take those frequent periods of absence into account while imposing the penalty.

5. As regards the contention of the learned counsel that the penalty imposed is disproportionate to the alleged misconduct, we need only cite the case of State of U.P. & Ors. v. Ashok Kumar Singh & Anr., 1996 (1) SLR 291 (SC) where the Apex Court held that the absence of a police constable from duty amounts to grave misconduct since police is supposed to be a disciplined force demanding strict adherence to the rules and procedures more than any other department. Here we find that the disciplinary authority has taken this aspect into account while concluding as follows :-

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"Unauthorised absence is one of the severest forms of indiscipline. It has the effect of lowering the efficiency and discipline of the police service which is against public interest. Such a serious and grave misconduct renders the defaulter Ct. absolutely unfit for retention in a police force. I, Naresh Kumar, DCP/III Bn. DAP do hereby remove Ct. Gulab Singh No.2712/DAP from service with immediate effect. His absence period mentioned above is treated as 'NOT SPENT ON DUTY (DIES-NON)' for all intents and purposes."

We also agree with the observation of the disciplinary authority that unauthorised absence is one of the severest forms of indiscipline in a police force and it has the effect of lowering efficiency and discipline which is against public interest.

6. In view of the aforesaid discussion, finding no ground for interference, this O.A. is dismissed at the administrative stage itself.

(Ashok Agarwal)
Chairman

(R. K. shooja)
Member (A)

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