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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2707/99

New Delhi: this the 18th day of September, 2001

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

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

Chandra Singh,
Ex-Constable No. 677 ND,
S/o Late Shri Ved Ram,
Village & PO Deota,
PS Sikandrabad,
Distt. Bulandshahr (UP)

.....Applicant

(By Advocate: Shri S. N. Anand)

Versus

Union of India,
(House Deptt.),
through
the Secretary,
Govt. of India,
Home Deptt.
New Delhi.

2. The Commissioner Police/
Addl. Commissioner of Police,
Northern Range,
Delhi.

.....Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER

S. R. Adige, VC (A):

Applicant impugns the disciplinary proceedings' order dated 19.5.94 (pages 14-19 of OA), the appellate authority's order dated 15.9.96 (pages 20-22 of OA); and the revisional order dated 18.2.98 (pages 23-26 of OA). He seeks reinstatement with consequential benefits.

2. Applicant was proceeded against departmentally on the allegation/charge that while posted at District Lines Ashok Vihar, Delhi, he absented himself unauthorisedly for a period of 42 days 7 hrs and 50 minutes on 3

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different occasions. His previous record showed that he was a habitual absentee who had been punished on 19 different occasions in the past and thus he was an incorrigible type of person.

3. The E.O. in his findings held the charge as proved. A copy of the E.O's report was furnished to applicant on 2.2.94 for representation, if any, but applicant failed to submit any representation till the date of the punishment. Applicant was also called for a personal hearing by the disciplinary authority, but despite several opportunities given to applicant, he failed to avail of the same.

4. Thereupon, after agreeing with the findings of the E.O., the disciplinary authority by impugned order dated 19.5.94, dismissed applicant from service. While doing so, he noted that the charge against applicant was fully proved and despite ample opportunity being given to applicant to defend himself, he had not availed of the same. The record of the departmental proceedings showed that applicant was an incorrigible person who had absented himself 19 times in the past, in addition to the present absences of over 42 days. Although he was punished for these absences in the past he had not mended himself and continued to absent himself frequently, without prior permission of the competent authority, and did not even bother to inform the department about the reason of his absence, which showed that he

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was very indisciplined and an incorrigible type of person.

5. The appellate authority after giving applicant a personal hearing, rejected applicant's appeal by impugned order dated 15.9.96, and applicant's revision petition was likewise rejected by impugned order dated 18.2.98

6. Perusing the grounds taken in Para 5 of the O.A. we find that ground (i) is not substantiated by applicant. Groun (ii) is untenable. There is no ground (iii). Regarding ground (iv) if applicant was indeed ill and bed-ridden, he has not satisfactorily explained why he did not file an application for leave. Ground (v) is not supported by any cogent material. As regards ground (vi) there was no legal compulsion for respondents to produce PW-4, and his non-production does not vitiate the disciplinary proceedings. Furthermore if as applicant alleges, he was not given an opportunity to cross-exsamine the PWs he has not explained why he did not take this plea before the disciplinary authority, or the appellate authority. As regards ground (vii) even if the absentee notice was not served, that does not disprove applicant's absence. Ground (viii) is not based on any cogent material, while ground (ix) is a repetition of ground (iv). As regards ground (x) applicant has not explained how it was a denial of

the principles of natural justice. As regards ground (xi) applicant has not explained who prevented him from making what he calls an "effective approach". Ground (xii) is baseless because it includes not only applicant's past absences but his recent absences also, which makes him out to be an incorrigible type of person. As regards ground (xii) applicant has no enforceable legal right to compel respondents to condone his unauthorised absences by commuting it to leave. The other grounds that applicant was not called to ^{orderly room} by the disciplinary authority; that he was ~~victimised~~; that he was not even suspended; and that he has been inflicted double punishment, are in the facts and circumstances explained above, without merit.

7. During hearing applicant's counsel raised three points. Firstly he contended that he was denied a defence assistant. This ground is clearly outside the grounds discussed above, and in any case applicant has failed to explain why he did not raise this point before the disciplinary authority and/or the appellate authority. The next point taken during hearing ^{was} that there was no discussion of applicant's leave applications. The applicant has no where stated in the body of the O.A. when and on what date he submitted any leave applications. This is, therefore, clearly as afterthought. The third point raised was that applicant's written statement was obtained by him under ^{duress} ~~force~~, but this again has

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not been specifically pleaded in the O.A., nor indeed before the disciplinary authority or the appellate or revisional authority.

8. The O.A. warrants no interference. It is dismissed. No costs.

A Vedavalli

(Dr. A. Vedavalli)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

karthik