

Central Administrative Tribunal  
Principal Bench

O.A. No.300 of 1999  
with  
MA No.45 of 2002

New Delhi, dated this the 21<sup>st</sup> March, 2002. 22

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Constable Bhoop Singh,  
No.527/A, 1ST BATTALION D.A.P(S.C),  
R/O 16/125 (Type II ND),  
D.P.Lines,  
Pitampura,  
Delhi  
(By Advocate: Shri U.Srivastava) Applicant.

Versus

1. Commissioner of Police,  
Delhi Police Headquarters,  
I.P.Estate,  
New Delhi.
2. Addl.Commissioner of Police,  
Operation,  
Delhi Police Hq.  
I.P.Estate,  
New Delhi.
3. Deputy Commissioner of Police,  
I.G.I. Airport,  
New Delhi  
(By Advocate: Shri Ram Kawar) Respondents.

S.R. ADIGE, VC (A) ORDER

Applicant impugns the appellate order dated 31.3.97 (Annexure B) and the Revisional Authority's order dated 11.6.98 (Annexure A). He seeks promotion w.e.f. 1.9.98 instead of 12.6.90 and other consequential benefits.

2. A departmental enquiry was ordered against applicant vide order dated 18.6.90 for unauthorised absence from duty. The Enquiry Officer in his findings concluded that the charge against applicant stood proved, and he was ordered to be removed from service vide order dated 14.1.91. Applicant

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challenged the aforesaid order of removal from service in OA No.78/92 which was disposed of by order dated 26.7.96, whereby the order of removal was quashed and set aside and respondents were directed to reinstate applicant. The disciplinary authority was called upon to pass a fresh order of penalty other than dismissal/removal from service and also ~~pass~~ <sup>pass</sup> appropriate orders regulating the intervening period from the date of dismissal till the date of reinstatement in accordance with law.

3. Accordingly applicant was reinstated in service, and the disciplinary authority after perusing the materials on record and considering the facts and circumstances of the case passed a fresh order of penalty on 1.10.96 (Annexure C). By that order, a punishment of forfeiture of 2 years' approved service was awarded to applicant permanently for a period of 2 years entailing proportionate reduction in pay. Accordingly applicant's pay was reduced by 2 stages from Rs.1150/- to Rs.1110/- p.m. in the time scale of Rs. 950-1400 with immediate effect. Applicant would not earn increments of pay during the period of reduction, and on the expiry of this period the reduction would have the effect of postponing future increments of pay. His period of unauthorised absence from duty from 11.1.90 to 21.2.1990 was ordered to be treated as leave without pay which

would not count as qualifying service towards persons and the intervening period was ordered to be treated as EOL.

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4. Applicant filed an appeal against the aforesaid order and the appellate authority by impugned order dated 31.3.97 reduced the penalty of withholding of increments without cumulative effect. Other conditions/stipulations made by the disciplinary authority were ordered to remain the same.

5. Applicant's revision petition was rejected by impugned order dated 11.6.98 on grounds of being time barred against which the present OA has been filed.

6. The OA was earlier dismissed for default by order dated 19.2.2001, but subsequently upon MA No.710/2001 being filed for restoration of the OA, the same was heard and allowed by order dated 27.11.2001. The OA was restored and was listed for hearing.

7. We have heard both sides.

8. In the present OA applicant has sought to argue on the merits of the case, contending that as he had been granted leave for the relevant period, he was permitted to absent himself from duty for that period and hence his absence was no misconduct.

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9. In the light of the Tribunal's earlier orders dated 26.7.96 specifically directing the disciplinary authority to pass a fresh order of penalty other than dismissal/removal from service, which has not been shown to have been stayed, modified or set aside, it is no longer open <sup>for applicant</sup> to advance the aforementioned contentions in the present OA. In compliance with the Tribunal's order dated 26.7.96 the disciplinary authority has issued a fresh penalty order, other than dismissal/ removal from service and that penalty has been further reduced by the appellate authority.

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10. In this view of the matter, the OA warrants no interference and the ruling in Ram Niwas Bansal Vs. State Bank of Patiala ATJ 1998 (3) page 1 does not advance applicant's claim because in the present case applicant has been given a personal hearing by the appellate authority on 21.3.97.

11. The OA therefore, along with MA No.45/2002 seeking certain interim directions in the OA, are dismissed. No costs.

*Kuldeep Singh*  
(Kuldeep Singh)  
Member (J)

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

/ug/