

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA No. 385 of 1999

(7)

New Delhi this the 27 th day of October, 2000.

Hon'ble Mr.Justice V.Rajagopala Reddy, Vice Chairman(J).  
Hon'ble Mr. Govindan S.Tampi, Member (A).

Attar Singh S/o Shri Nand Lal,  
NO.1232/C-11572/DAP,  
R/o Vill: Kalaka, P.O. Majra Gurdas,  
Distt. Mahendergarh(Hissar).

.... Applicant

(By Advocate: Shri T.P.S.Rathore)

VERSUS

1. Commissioner of Police,  
Delhi Police Head  
Quarters, I.P.Estate, New  
Delhi.
2. Addl. Commissioner of  
Police, Delhi, Police Head  
Quarters, I.P.Estate, New  
Delhi.
3. Deputy Commissioner of  
Police, Xth Bn., D.A.P.,  
Delhi.

.... Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

Mr. Govindan S.Tampi

This application challenges the removal from the service of the applicant, Shri Attar Singh by the appellate order dt. 22.1.99 passed by Additional Commissioner of Police, Delhi which <sup>had</sup> upheld the original order of the Deputy Commissioner of Police dt. 8.6.1998.

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2. The applicant who was constable was transferred from Central District Delhi Police to 10th Bn. DAP on 11.12.96 and was relieved on 3.4.1997 <sup>but</sup> did not report at his new place of posting and was accordingly marked absent w.e.f. 3.4.1997. Two absentee notices were issued to him on 12.8.97 and 23.9.97. He resumed duty on 10.11.1997, after absenting himself for a period of seven months and six days. He was again <sup>away</sup> from his duty on 29.11.1997 to 6.1.1998 for a period of 37 days. Proceedings were initiated against him and on the basis of the findings of the enquiry officer, that the charges stood proved disciplinary authority, i.e. Deputy Commissioner of Police removed him from service by the order dt. 8.6.98. On <sup>his</sup> carrying it in appeal, it was confirmed by the appellate authority, Additional Commissioner of Police on 22.11.99.

3. We have heard the counsel for the applicant and the respondents. Shri T.P.S. Rathore, learned counsel for applicant states that major punishment of removal had been inflicted on the applicant though his absence was neither intentional or deliberate. From April to November, 1996 he was under treatment for paralysis and he had produced medical certificate. Thereafter for 30 days from 29.11.1997 to 6.1.1998, he was suffering from fever and jaundice, for which also he produced another medical certificate. His medical certificates were not taken into consideration by the Department. The enquiry officer had

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not considered the evidence produced by the applicant and mechanically gave a report against him which was accepted by both the disciplinary authority and the appellate authority, which ~~left~~ <sup>has left</sup> the applicant in dire circumstances. This deserved to be set aside, if the counsel's plea.

4. Arguing for the respondents Sh. Vijay Pandita, the learned counsel states that the Department had taken all the proper steps. They had issued two absentee notices to the applicant directing this to join duty. Only ~~where~~after the enquiry proceedings were initiated against him. The applicant could not produce any evidence showing that his absence was with due sanction from the competent authority. Enquiry Officer, therefore held the charge as proved, which was correctly accepted by the disciplinary authority and upheld by the appellate authority. There was no reason for any interference in the matter, is the plea by the learned counsel.

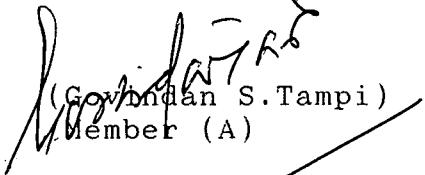
5. We have carefully considered the matter. It is not on dispute that the applicant was away from duty for more than seven months and six days i.e. from 3.4.97 to 10.11.97 and, thereafter, for thirty seven days from 29.11.97 to 6.1.98. It is also on record that the department had also <sup>been</sup> issued two absentee notices to him which were not responded to. Only thereafter the proceedings against him began. The applicant now seeks to rely upon medical certificates which were not produced

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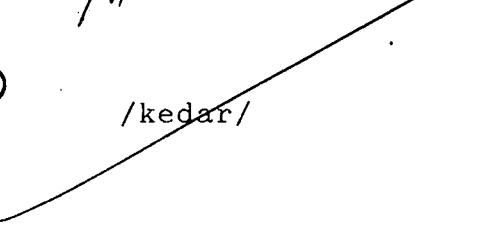
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before the proper authorities at the relevant time. This cannot be accepted. The <sup>records</sup> ~~reasons~~ clearly show that the applicant was given full opportunity to defend his case before the enquiry officer and thereafter before the disciplinary authority. That being the case he cannot take the plea that the proceedings had been mechanical. His unauthorised absence having been proved the disciplinary authority imposed the penalty which was upheld by the appellate authority. We do not find any reasons to assail the decisions, in the circumstances brought out ~~on record~~.

6. The application having no merits fails is dismissed. No order to costs.

  
(Govindan S. Tampi)  
Member (A)

  
(Justice V. Rajagopala Reddy)  
Vice Chairman (J)

  
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