

Central Administrative Tribunal, Principal Bench

Original Application No.111 of 1998

New Delhi, this the 15th day of February, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Parvesh Kumar  
S/o Shri Om Dutt  
R/o 405, Police Quarters,  
P.S. Tilak Nagar,  
New Delhi

- Applicant

(By Advocate - Shri Jugal Wadhwa)

Versus

1. Union of India  
through Chief Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi

2. Commissioner of Police,  
Police Head Quarters  
Near ITO,  
New Delhi.

- Respondents

(By Advocate - Shri Ajesh Luthra)

O R D E R (ORAL)

By Hon'ble Mr. S. R. Adige, Vice Chairman(A)

1. Applicant impugns the disciplinary authority's order dated 21.11.95 (Annexure A-1) and the appellate order dated 14.10.96 (Annexure A-2).

2. Applicant was proceeded against departmentally vide order dated 14.11.94 (Annexure A-3) on the allegation that he was found absent from duty unauthorisedly and wilfully on as many as 13 separate occasions.

3. The disciplinary authority's order records that applicant admitted the allegations before the Enquiry Officer and did not want to face the

2

departmental enquiry. Thereupon, the Enquiry Officer framed charges and after considering the pleas taken by the applicant in his defence statement, concluded that the charge levelled against the applicant stood fully proved.

4. Tentatively agreeing with the Enquiry Officer's findings, a copy of the same was supplied to the applicant for representation, if any. Applicant submitted a representation and after considering the same, the disciplinary authority by the impugned order dated 21.11.95, imposed the penalty of stoppage of two increments with immediate effect for a period of two years with cumulative effect and his periods of absence were directed to be treated as leave without pay.

5. Thereupon, the ~~appellate~~ authority in exercise of powers vested in him under Rule 25 (B) (III) of Delhi Police (Punishment & Appeal) Rules, after proposing to enhance the aforesaid punishment, directed issue of show-cause notice dated 12.3.96 to the applicant to show-cause why he should not be dismissed from service.

6. Applicant submitted his reply to the aforesaid show-cause notice on 25.5.96 (Annexure A-5) and after considering it, the reviewing authority rejected the same, and by impugned order dated

2

14.10.96, ordered that applicant be removed from service with immediate effect and his periods of absence be treated as leave without pay.

7. Applicant filed an appeal against the aforesaid order dated 14.10.96 and upon the said appeal not being decided, he has preferred this OA.

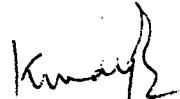
8. We have heard Shri Jugal Wadhwa, learned counsel for the applicant and Shri Ajesh Luthra, learned counsel for the respondents.

9. Shri Wadhwa has emphasised that as both the disciplinary authority as well as the ~~appellate~~ <sup>reviewing</sup> authority have ordered regularisation of the periods of absence by directing that the same be treated as leave without pay, the question of applicant being treated as unauthorisedly absent for the aforesaid periods does not arise, and the impugned orders therefore deserve to be quashed. In this connection, he has relied upon the Hon'ble Supreme Court's judgement in State of Punjab and ors. vs Bakshish Singh, JT 1998(7) SC 142 as well as Delhi High Court judgement in Satya Pal Yadav vs. Union of India & ors. 71(1998) Delhi Law Times 68.

10. In the light of the aforesaid rulings which are clearly applicable to the facts and circumstances of the present case, we are satisfied that the impugned orders cannot be sustained in law.

(11)

11. In the result, the OA succeeds and is allowed to the extent that the impugned orders of the disciplinary authority dated 21.11.95 and of the reviewing authority dated 14.10.96 are quashed and set aside. The applicant should be reinstated in service within two months from the date of receipt of a copy of this order. The period of applicant's dismissal till the date of his reinstatement and such consequential benefits as will accrue to him upon his reinstatement, shall be regulated by the respondents in accordance with the rules, instructions and judicial pronouncements on the subject. No costs.

  
(Kuldip Singh)  
Member (J)

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

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