

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 118/98

New Delhi this the 7th day of December, 1999

Hon'ble Shri S.R. Adige, Vice Chairman(A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Ex.A.S.I. (Dvr.) Sultan Singh
No. 4134/D (PIS No. 28170404)
S/O Sh. Ram Chander
R/O Village and Post Office
Asaudha, Police Station,
Bahadur Garh, Distt. Rohtak,
Haryana.

.. Applicant

(By Advocate Mrs. Avnish Ahlawat)

Versus

1. Union of India through
L.G. Govt. of N.C.T.,
through Commissioner of Police,
Police Headquarter, Delhi Police,
Delhi.
2. Shri S. Ramakrishnan,
Senior Addl. Commissioner of Police
(Intelligence) Delhi MSO Building,
I.P. Estate, P.H.Q., New Delhi.
3. Shri B.S. Bhola
Dy. Commissioner of Police (Special Cell),
(S.B.) MSO Building, I.P. Estate,
Police Head Quarter, New Delhi.

.. Respondents

(By Advocate Shri Bhaskar Bhardwaj proxy
counsel for Shri Arun Bhardwaj)

O R D E R (ORAL)

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

Applicant impugns the respondents order dated 4.4.96
(Annexure A), appellate authority order dated 5.11.96 (Ann.C)
and order dated 27.6.1997 (Annexure D).

2. We have heard applicant's counsel Mrs Ahlawat and
respondents counsel Shri Bhaskar Bhardwaj.

3. Applicant was awarded the punishment of censure vide
order dated 25.3.96 on the allegation that on 12.10.1995
while he was detailed for duty in operation cell, Lodhi
Colony, he did not report for the same. He was marked
absent on 12.10.95 and resumed his duty on 20.10.95 after

absenting himself for a period of 8 days and 20 minutes.

4. The above censure was reviewed by Sr. Additional Commissioner of Police, and as the punishment was considered too lenient, because applicant had absented himself unauthorisedly on the previous 27 occasions also, a regular D.E. was ordered by order dated 4.4.96.

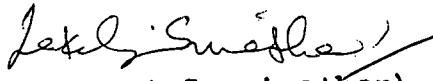
5. The Enquiry Officer submitted his findings holding the charges against the applicant stood proved. A copy of the E.O.'s findings were served on the applicant on 4.10.96, on which he submitted his representation. After going through the applicant's representation, as well as relevant records, and keeping in view the gravity of the misconduct and also the fact that applicant had absented himself on 27 previous occasions, the punishment of dismissal from service was imposed vide order dated 5.11.96, after treating the absence of 8 days 20 minutes as leave without pay. Applicant's appeal was rejected by order dated 27.6.97.

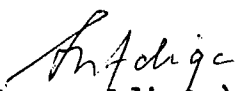
6. Respondents counsel does not seriously dispute the fact that the impugned orders are squarely hit by the Hon'ble Supreme Courts judgement in the State of Punjab and Ors. Vs. Bakshish Singh (1998(5) Scale 580 wherein it has been held that once the period of unauthorised absence has been regularised by grant of leave, the charge of absence from duty does not survive. The aforesaid ruling of the Supreme Court has been relied upon by the Tribunal in various recent orders including order dated 14.7.99 in OA 2611/93-Ex. Constable Dilbagh Singh Vs. Union of India through Ministry of Home Affairs and Ors. and order dated 22.7.99 in OA 2576/94 Ex. Constable Ram Kishan Vs. Govt. of NCTD through Commissioner of Police and Ors.

7. In the present case also the period of unauthorised absence of 8 days 20 minutes having been treated as leave

Without pay, the charge of absence from duty does not survive in the light of the ruling in Bakshish Singh's case (Supra).

8. In the result the OA succeeds and is allowed to the extent that the impugned orders dated 4.4.96, 5.11.96 and dated 27.6.1997 are quashed and set aside. The respondents shall reinstate the applicant within one month from the date of receipt of a copy of this order. The period between the date of dismissal and the date of reinstatement shall be regulated by respondents in accordance with rules, instructions and judicial pronouncement on the subject. No costs.


(Smt. Lakshmi Swaminathan)
Member(J)


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

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