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Central Administrative Tribunal
Principal Bench

O.A.No.1195/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 15 day of July, 1998

Shri Bhagwan Lal Arya
s/o Shri Narayan Prashad
r/o 16/154-E, Anand Puri
Tank Road, Karol Bagh
New Delhi - 110 005.

.. Applicant

(By Shri R.K.Sharma, Advocate)

Vs.

1. Commissioner of Police Delhi
Delhi Police Headquarters
M.S.O.Building
I.P.Estate
New Delhi
(Representing Govt. of NCT of Delhi/UOI)
 2. Senior Additional Commissioner of Police (AP&T)
Delhi Police Headquarters
M.S.O.Building, I.P.Estate
New Delhi.
 3. Deputy Commissioner of Police
IVth Bn. D.A.P. New Police Lines
Kingsway Camp
Delhi.
- ... Respondents

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant, who was appointed as a Constable in Delhi Police on 1.5.1994, is aggrieved by the order passed by the Disciplinary Authority dated 25.6.1996 imposing upon him the penalty of removal from service, the order of the appellate authority dated 26.9.1996 rejecting his appeal and order dated 2.6.1997 refusing to entertain his revision petition on the ground of limitation.

2. The brief facts of the case are that the applicant was undergoing training for newly recruited constables at R.T.C./Wazirabad where, on 7.10.1994 while
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attending the parade, he fell down. The applicant says that he was not provided any medical assistance and he was left to himself. He went to the New Police Line Dispensary for treatment. However, as there was no improvement in his health and finding that nobody from the department was taking care of him he was taken by his relatives to Gwalior where he was treated by the doctors of the Madhya Pradesh Govt. Dispensary. He also claims that two letters had been sent by him to his superiors informing them of his illness. He resumed the duty on 14.12.1994 after an absence of seven months. A departmental enquiry was ordered which resulted in the impugned order of removal from service. The applicant submits that the orders of the disciplinary authority and those of the appellate authority are liable to be quashed and set-aside since the absence from duty was not wilful, the enquiry officer did not appreciate the defence evidence properly, and this being a solitary case of absence, the punishment imposed was disproportionate and harsh.

3. We have heard Shri R.K.Sharma, learned counsel for the applicant but find that the applicant has no case whatsoever. It is an admitted position that the applicant left for Gwalior without obtaining the permission of his superiors. His defence is that nobody in the department was taking care of him and as he was new to the city, his relatives took him to Gwalior. Before the appellate authority, he also took the plea that being a newly recruited constable he was not aware of the rules and regulations of the Department. When the applicant, on his own, went to the dispensary at New Police Lines and could travel to Gwalior from Delhi it is

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difficult to accept his plea that he was not in a position to seek the prior permission of his superiors. The essential point however is that when the applicant himself admits his unauthorized absence for a period of seven months, it cannot be said that it is a case of 'no evidence'. The applicant submits that the Enquiry Officer did not taken into account the defence evidence of his relatives. This again is not relevant as the Tribunal is not called upon to reappreciate the evidence and substitute its own judgment in place of that of the enquiry officer/disciplinary authority. As regards the plea of the applicant that this being a solitary case of absence it cannot be regarded as a 'grave misdemeanor' justifying the harsh penalty of removal of service, we endorse the conclusion of the disciplinary and appellate authority that police being a disciplined force, absence from duty is a serious misconduct. We are strengthened in this view by the observation of Supreme Court in the State of U.P. Vs. Ashok Kumar Singh, 1996 (1) SLR 291 that the absence of police constable from duty amounts to a grave charge. The applicant case is thus covered by Rule 8 of the Delhi Police (Punishment and Appeal) Rules, 1980.

4. In the light of the above discussion, we find no ground to proceed further with the OA. The same is accordingly summarily dismissed at the very threshold.

K.M. Agarwal
(K.M. Agarwal)
Chairman

R.K. Ahooja
(R.K. Ahooja)
Member(A)

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