

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1308 OF 1998

New Delhi this the 11th day of October, 2000.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Hon'ble Mr. V.K. Majotra, Member(A)

Jagdish Kumar, Constable
No. 617/RB,
S/o Shri Mam Chand,
R/o H.NO. C-218, Main Market,
Gali No.10, Bhajanpura,
Delhi.

... Applicant

(By Shri Sama Singh, learned counsel
for applicant.)

VERSUS

1. Commissioner of Police,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
2. Sr. Addl. Commissioner of Police,
R.P. Bhawan, New Delhi.
3. Deputy Commissioner of Police,
R.P. Bhawan, New. Delhi- 110011.

... Respondents

(By Shri Ajesh Luthra, learned counsel
for respondents.)

By Hon'ble Mr. V.K. Majotra, Member(A)

O R D E R

While under suspension from 5.1.96 to 23.3.96, the applicant absented himself for a period of about 58 days from 3.2.96 to 1.4.96. A show-cause notice dated 24.6.96 was issued to him why the period of absence be not treated as leave without pay. After considering his reply to the said notice the competent authority passed order dated 10.4.97 (Annex A) treating the absence period as leave without pay; appeal against was rejected vide order order 6.11.97(

(X)

Annex-B) the applicant has challenged the above orders. He has sought that both these orders should be set aside and the period of alleged absence from 3.2.96 for 58 days be treated as spent on duty with consequential benefits.

According to the applicant he was under suspension from 5.1.96 and thus during the period of suspension he could not have been marked absent and treated on leave without pay.

As per their counter the respondents have stated that in DE proceedings the disciplinary authority awarded punishment of 'censure' against the applicant while treating the period of his suspension as spent on duty. But during the suspension period the applicant had absented himself for a period 58 days which was decided as leave without pay. According to the respondents there is no contradiction in both the orders. Referring to SO No.123/89 the respondents have maintained that a Police Officer under suspension is under duty to attend to the roll-call and if he does not do so he can be treated on leave without pay. The respondents have also --- stated that the applicant had submitted a medical certificate after the period in question. Mere production of medical certificate is not enough to avail leave; the same not having been sanctioned .

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We have heard the learned counsel of both sides and considered the material available on record.

The learned counsel of the applicant Shri Sama Singh contended that asking employees to attend roll-call during the period of suspension is illegal and therefore the period of absence from 3.2.96 for 58 days during the suspension period could not have been treated as leave without pay particularly when vide order 8.5.97 the period of suspension had been treated to have been spent on duty.

The learned counsel of the respondents Shri Luthra referred to a Full Bench order in OA 2947/97 with OA 1236/97 passed on 18.9.2000 wherein it has been held that a police officer under the provisions of Delhi Police Act and Rules is required to attend roll-call and be available to the authorities during the period of suspension and failure to do so amounts to unauthorised absence.

The relevant order dated 18.9.2000 referred to above is reproduced below:

" By an order passed on 14.7.2000 in OA 2947/97 a Division Bench of this Tribunal (Coram Hon'ble Mr.Justice V.Rajagopal Reddy,

VJ

VC and Hon'ble Mrs. Shanta Shastry, M(A) has referred to a following question for consideration of the Full Bench.

" Whether a police officer under the provisions of Delhi Police ACT and Rules thereunder, is required to attend to roll call and be available to the authorities during the period of suspension and failure to do so would amount of unauthorised absence.?

"

The aforesaid is answered in the affirmative."

In the light of the above judgement there is nothing illegal to call upon a constable of Delhi Police to attend Roll-Call during the period of suspension and if he absents himself he can certainly be accorded leave without pay. Further, we do not find any infirmity in the action of the respondents when the period of suspension in the present case which is longer than the period of absence of the applicant has been treated to be spent on duty in the disciplinary proceedings.

Having regard to what is stated above we do not find any merit in the OA and dismiss the same accordingly, no costs.

V.K. Majotra
(MR. V.K. MAJOTRA)
MEMBER (A)

Lakshmi Smetha
(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)