

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 2042/1998

New Delhi this the 13th day of November, 2000

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Ex. Constable Bir Prakash No. 8683/D.A.P.,
S/o Late Shri Kartar Singh,
aged about 31 years, previously employed
in Delhi Police,
R/o Vill & P.O.- Khera Khurd,
Delhi-82Applicant
(By Advocate Shri Shankar Raju)

Versus

1. Union of India, through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi
2. Commissioner of Police,
Police Head Quarters, I.P. Estate,
M.S.O. Building, New Delhi
3. Sr. Addl. Commissioner of Police,
A.P.&T, Police Head Quarters,
I.P. Estate, New Delhi
4. Dy. Commissioner of Police,
3rd Bn, Vikas Puri,
DelhiRespondents
(By Advocate Shri Rajinder Pandita)

O R D E R (CORAL)

By Shri S.A.T. Rizvi, Member (A) :-

1. In these departmental proceedings, the applicant, Constable Bir Prakash, has been charged with unauthorised absence from duty in a willful manner from 7.12.1995 for a total period of 244 days. After following the prescribed procedure and after giving the applicant full opportunity to state his case and to defend himself, the disciplinary authority has ordered his removal from service vide order dated 14.3.1997. The appellate authority has rejected the applicant's appeal vide order dated 12.8.1997. The revision

2

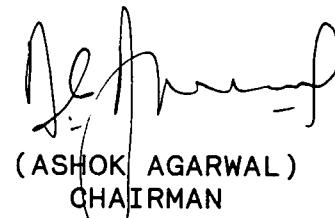
petition filed by the applicant was rejected by the Commissioner of Police on the ground of being time barred.

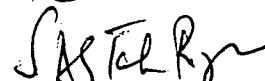
2. We have heard the learned counsel on either side and have perused the records. The main contention of the learned counsel for the applicant is that the fact of the illness of the applicant has not been taken into account and this has resulted in an order of ~~punishment~~ disproportionate to the specific act of indiscipline committed by him. We have perused the medical certificate dated 6.8.1996 placed on record. This shows that the applicant was advised rest for six months from 7.12.1995 which was extended by another two months, the total period ending on 6.8.1996. The same certificate also certifies his medical fitness to resume his duty from 7.8.1996. Enclosed with the said certificate is a prescription scribbled by the same Medical Practitioner, prescribing Disprin and Liv 52 tablets. We find that the applicant was never an indoor patient and the Infectious Disease Hospital in Kingsway Camp, Delhi, which he used to visit in connection with his treatment was located at a stone's throw (one KM or so) from the office of the respondent. However, he never cared to approach the respondents to given them the information about his illness and to seek leave of absence. During the course of the proceedings the applicant failed to cross-examine the PWs and also did not produce any defence witness. We also find that he failed to appear before the CMO, Civil Hospital, Rajpur Road, Delhi, for a second medical examination.

2

3. In the circumstances of this case and having due regard to the nature of applicant's illness, we are one with the disciplinary authority in holding that unauthorised absence is one of the severest forms of indiscipline and that it has the effect of lowering the efficiency and discipline of the police service and is, therefore, against public interest. We also hold, in common with the disciplinary authority that the applicant absented himself in contravention of rule 25 of the CCS (Leave) Rules, 1972. In the circumstances, we see nothing wrong with the punishment meted out to the applicant. We are equally satisfied about the degree of punishment inflicted on him.

4. In the result, the OA fails and is dismissed without any order as to costs.


(ASHOK AGARWAL)
CHAIRMAN


(S.A.T. RIZVI)
MEMBER (A)

(PKR)