

Central Administrative Tribunal, Principal Bench

Original Application No. 2429 of 1998

New Delhi, this the 21st day of September, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

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Yash Pal
(3426/DAP)
S/o Shri Rajpal Singh
R/o G. No. B-3, PS Nand Nagri
Delhi

- Applicant

(By Advocate - Shri Shyam Babu)

Versus

1. Govt. of NCT Delhi through its
Chief Secretary,
5, Sham Nath Marg,
Delhi

2. Addl. Commissioner of Police
Armed Police,
Police Headquarter
I.P. Estate, New Delhi.

3. Dy. Commissioner of Police
4th En. DAP,
Kingsway Camp,
New Delhi

- Respondents

(By Advocate - Shri Harvir Singh)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

In this OA, the applicant has impugned the disciplinary authority's order dated 19.4.97 (Annexure A) and appellate authority's order dated 2.4.98 (Annexure B), confirming the order passed by the disciplinary authority imposing punishment of forfeiture of two years of approved service permanently for a period of two years.

2. Learned counsel for the applicant has challenged these impugned orders on the ground that initially vide Annexure C, a show cause notice was issued to the applicant on 13.5.96 which was subsequently withdrawn vide Annexure E dated 23.8.96 and thereafter

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again an inquiry was ordered vide Annexure F dated 24.8.98. He pointed out that the respondents could not have started a fresh inquiry when the earlier notice was withdrawn merely on administrative grounds, without reserving the right to hold another inquiry.

3. Facts of this case are more or less not denied that the first show cause notice was given to the applicant for his unauthorised absence of 27 days, 20 hours and 50 minutes. Summary of allegations issued to the applicant for conducting a fresh inquiry also shows that the second inquiry ordered to be conducted against him was also on the same allegations of unauthorised absence for 27 days, 20 hours and 50 minutes, between the period 8.12.95 to 4.1.96. Applicant states that respondents order to initiate a fresh inquiry on the basis of the same allegations as levelled against him in the first show cause notice, is in violation of Rule 15 of the CCS (CCA) Rules, 1965 and contrary to Rule 8(d) of Delhi Police (Punishment and Appeal) Rules. Learned counsel for the applicant has referred to the two judgements of the Co-ordinate Bench of this Tribunal in OA-602/91 (Inspector Harbans Singh vs. Commissioner of Police & ors) and in OA-2176/98 (Amar Chand & ors. vs. Jt. Commissioner of Police & ors.). After going through these judgements, we are convinced that the facts of the present case are similar to that of OA Nos. 602/91 and 2176/98. We also notice that the order in OA No.2176/98 was itself based on the judgement in OA-602/91. In the order passed in OA-2176/98, it is mentioned that respondents had withdrawn their show-cause notice in that

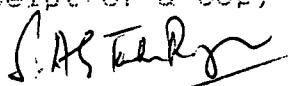
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case also on administrative grounds.

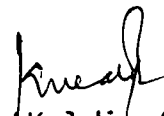
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4. From the facts of the present case, it is clear that the earlier show cause notice was withdrawn by the respondents on administrative grounds as was done in the cases of Inspector Harbans Singh (supra) and Amar Chand and ors. (supra). In their cases also the enquiries were dropped on 'Administrative Grounds' and were restarted afresh on same allegations which were challenged and enquiry reports were quashed and OAs were allowed.

5. Following the judgements of both these cases, we also allow this OA and quash the impugned orders dated 19.4.97 and 2.4.98. Respondents are directed to restore to the applicant the period of two years approved service forfeited by them by the impugned orders, alongwith increments. Applicant will also be entitled to the consequential benefits. These directions should be implemented within a period of two months from the date of receipt of a copy of this order. No costs.



(S.A.T. Rizvi)
Member (A)



(Kuldip Singh)
Member (J)

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