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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1233/95

New Delhi: this the 18th day of July, 2000.

HON'BLE MR.S.R.ADIGE VICE CHAIRMAN(A).

HON'BLE MR.KULDIP SINGH, MEMBER(J)

Ex. Const. Ashok Singh No.1794/DAP,
S/o Shri Gopal Singh,
R/o Gowardhan Gate, Kumber,
PO & Tehsil Kumbor,
Distt. Bharatpur (Rajasthan)

....Applicant.

(By Advocate: Shri S.S.Tewari).

Versus

1. Govt. of NCT of Delhi
through

Commissioner of Police,
Police Headquarters,
I.P.Estate,
New Delhi.

2. Addl. Commissioner of Police,
AP & T, Police Headquarters,
New Delhi.

3. Deputy Commissioner of Police,
2nd Bn. DAP Kingsway Camp,
Delhi.

....Respondents.

(By Advocate: Shri Harvir Singh)

ORDER

Mr. S.R. Adige, VC(A):

Applicant impugns the disciplinary authority's
dismissal order dated 20.10.94 (Annexure-A Colly) and
the appellate order dated 3.2.95 (Annexure-A Colly)
rejecting the appeal.

2. This OA was earlier heard along with other
OAs and dismissed by common order dated 18.8.99 on
the ground that these cases were distinguishable from
the case before the Hon'ble Supreme Court in State of
Punjab Vs. Bakshish Singh JT 1998 (7) SC 142.

3. Thereupon an RA was filed in this case for

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review of the order dated 18.8.99 in so far as it was applicable to this case, on the ground inter alia that Bakshish Singh's case (supra) had not been taken as a ground to challenge the impugned order. The RA was allowed and the matter has been reheard.

4. Applicant was proceeded against departmentally on the allegation of wilful and unauthorised absence on the following two different occasions;

i) 7.10.92 to 21.1.93	-	107 days.
ii) 30.3.93 to 28.12.93	-	274 days.

5. The Enquiry Officer in his report dated 17.8.94 (Annexure-D) held the charge of unauthorised and wilful absence in the aforesaid two spells as proved without doubt.

6. A copy of the Enquiry Officer's findings was furnished to applicant on 1.9.94 for representation, if any but applicant did not submit any representation despite several opportunities.

7. Thereupon after going through the materials on record and agreeing with the Enquiry Officer's findings, the Disciplinary Authority dismissed applicant from service vide impugned order dated 20.10.94 which was upheld in appeal vide impugned order dated 3.2.95.

8. We have heard applicant's counsel Shri Tiwari and respondents' counsel Shri Harvir Singh.

9. The main ground advanced by applicant's counsel was that applicant was absent because of

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his illness which was beyond his control and in this connection has drawn attention to copies of certain Medical Certificates filed by him.

10. Applicant's contention that his absence were on account of illness has been considered not only by the Enquiry Officer but also by the Disciplinary Authority and the Appellate's Authority. Even if applicant was ill as he claims, he could have applied for leave during the course of his illness, but there is no averment by him that he did so. It is well settled that no leave can be claimed as of right, even on account of illness and has to be supported by proper applications for leave. In the absence of any such applications, respondents have disbelieved applicant's contention that he was absent on account of illness and we see no reason to take a different view.

11. Applicant's counsel has relied upon a CAT PB order dated 20.9.93 in OA No.1077/93 'Khilari Ram Vs. LG Delhi & Ors.', but that order relates to the facts and circumstances of that particular case and does not lay down any law of general applicability.

12. The OA warrants no interference. It is dismissed. No costs.

Kuldeep Singh
(KULDIP SINGH)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A).

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