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Central Administrative Tribunal, Principal Bench

OA No. 1802/95

New Delhi this the 28th day of March, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)  
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

Ramjas son of Shri Ami Chand,  
R/o Village ~~Modha~~ Aheer,  
PO: Alan Pur, P.S. Bansoor,  
District Alwar (Rajasthan).

... Applicant

(By Advocate Shri Shyam Babu, though none appeared)

Vs.

1. Senior Addl. Commissioner of Police,  
AP&T, Police Headquarters,  
I.P. Estate,  
New Delhi.

2. Principal, Police Training School,  
Jharoda Kalan, New Delhi.

... Respondents

(By departmental representative ASI Jagdish Prasad)

ORDER (ORAL)

By Reddy, J./

None appears for the applicant either in person or through counsel. Learned counsel for the applicant Shri Shyam Babu, however, submitted the written arguments when the case was taken up for hearing. The respondents counsel is also not present. However, departmental representative Shri Jagdish Prasad, ASI is present on their behalf. Since the matter is of 1995, we proceed to dispose of the same on merits.

2. The applicant, while working as a Constable in the Delhi Police, was transferred from Security Unit New Delhi to P.T.S. as Personal Orderly to Inspector Jai Bhagwan, by order dated 15.6.92 and relieved of his duties on 29.6.92. He, however, did not join duty in P.T.S. on 1.7.92. Consequently, he was absent in the PTS daily diary vide entry No.16 dated 18.7.92. A letter was issued to him at his residential address through registered post on 4.8.92, directing him to resume duty at once. But the same was received undelivered with

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the postal employee's report thereon that no person by the name of addressee lived there. He reported back in PTS on 8.10.92 after remaining absent for a period of 99 days, unauthorisedly. Though he was issued notices on 6.11.92, directing him that he should resume his duty at once and that his failure to do so would entirely result in loss of pay apart from disciplinary action against him, the said notice was also received back undelivered with the endorsement that the addressee has gone back on duty. He continued to be absent till 5.2.93 without any intimation. He stated, thereafter that due to illness he could not report for duty. Again he was absent from 6.2.93 to 26.8.93, unauthorisedly. Thereafter, departmental enquiry has been initiated against him and the enquiry was entrusted to the enquiry officer who conducted the enquiry and found him guilty of the charge framed against him. The findings of the enquiry officer and the submissions made by the applicant were considered by the disciplinary authority <sup>K along with</sup> ~~as well as~~ the evidence of PWs and DWs and finally agreed with the findings of the enquiry officer. Taking a lenient view the punishment was imposed upon him, reducing his pay by two stages from Rs.1110/- to Rs.1070/- in time scale of pay for a period of two years and that he would not earn increments of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. The period of unauthorised and wilful absence from duty ~~was treated as the period 'not spent on duty'~~, by order dated 2.5.94. The appeal filed by the applicant was rejected by order dated 27.9.94. The above orders are under challenge in this OA.

3. We have scrutinised the evidence, the pleadings as well as the points urged in the OA and the points raised in the written arguments. It is contended that unless there is a specific charge of wilful absence

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the applicant cannot be proceeded under the Rules. It is urged that as per Rule 25 (2) of CCS (Leave) Rules, wilful absence from duty alone renders a Government servant liable to a disciplinary action. We do not find any substance in this contention. In the summary of allegation as well as the charge framed by the enquiry officer (Annexure F) it was alleged that the applicant did not join duties on his transfer to PTS on 7.9.92. Even <sup>after</sup> of the notice to resume duty through registered letter he continued to be absent without any valid sanction of leave. Again on 6.11.92 an absentee notice was issued to him asking him to resume duty, but he failed to do so. Again he remained absent till 26.8.93. Thus, on more than one occasion the applicant did not join duty in spite of notice. The only implication from the above is that the applicant wilfully did not join duties. Hence, the disciplinary action was taken against him. The contention, therefore, that there is no wilful negligence in the charge is wholly misconceived.

4. The next contention that the penalty awarded by the disciplinary authority amounts to multiple punishments and that it was contrary to the Delhi Police (Punishment & Appeal) Rules, 1980 is also incorrect. The Full Bench in OA No. 2225/93 decided on 18.5.99 - ASI Chander Pal v. Delhi Admin. & Another found that the similar punishment imposed will not amount to multiple punishments. It is true that the said judgment is under scrutiny by the High Court in a Writ Petition, but until it is set aside or modified by the High Court we are bound by the judgment of the Full Bench. Hence, following the Full Bench of the judgment, we reject the contention of the applicant.

5. It is lastly contended that as the period of suspension was treated as 'not spent on duty' it would amount to break in service and that in case the delinquent should be given an opportunity to make representation. He relies upon the judgment in Gurmukh Singh v.

*(Signature)*

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The State of Punjab & Another, 1980 (3) SLR page 9. In fact in the present case the applicant was issued notice dated 6.11.92, asking him to resume duty at once and failure to do so would entail loss of pay. This was made explicitly clear in the impugned order of the disciplinary authority. The applicant had not responded to the said notice nor joined duty at once. In the circumstances, it cannot be said that the applicant was not issued any notice.

6. ~~No other contentions are raised.~~ The other contentions relate to the merits of the findings given by the enquiry officer, which cannot be gone into by us in the exercise of the judicial review jurisdiction. The DA, therefore, fails and is accordingly dismissed. No costs.

*Smt. Shanta Shastray*  
(Smt. Shanta Shastray)  
Member (Admnv)

*Om Gyanday*  
(V. Rajagopala Reddy)  
Vice-Chairman (J)

'San.'