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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2173 of 1996

New Delhi, this 24th day of March, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Ex.Const. R.K.Shukla
S/o Shri S.R. Shukla
R/o Vill Bakauli Mandir
Alipur, Delhi-26 ...Applicant

(By Shri V.P. Sharma, Advocates - not present)

versus

1. Govt. of N.C.T. of Delhi
through:
Commissioner of Police
Police Headquarters
I.P. Estate, New Delhi-110002
2. Sr. Additional Commissioner of Police
Police Headquarters (AP&T)
I.P. Estate, New Delhi-110002
3. Deputy Commissioner of Police
VIII Battalion DAP
Malviya Nagar
New Delhi. ...Respondents

(By Shri Surat Singh, Advocate - not present)
(SI Jarnail Singh, departmental representative
however is present.)

Order (Oral)

By Reddy, J.

The applicant is not represented either in person or through counsel. The respondents however is represented by departmental representative Jarnail Singh, S.I. Learned counsel for the respondents however is absent.

2. The applicant was a Constable in Delhi Police. It was alleged that on 29.6.1994, the applicant went to the hospital for medical treatment but neither resumed duty nor submitted any medical certificates. He absented himself



without intimation in contravention of rules. In spite of subsequent notice sent to his residence to resume duty he absented himself without any intimation.

3. On the above allegation, a departmental enquiry has been initiated against him and the enquiry officer after completing the enquiry submitted his report to the disciplinary authority holding the applicant guilty of the charges. A copy of the enquiry officer's report was served on the applicant on 13.4.1995. He was given an opportunity to submit his representation in regard to the findings of the enquiry officer but the applicant refused to avail of the opportunity. The disciplinary authority after considering the evidence on record agreed with the findings of the enquiry officer and passed the impugned order dated 22.11.1995 dismissing the applicant from service. The period of absence was treated as not spent on duty. The applicant's appeal was also rejected by the order dated 17.4.1996. Aggrieved by the above orders, the applicant filed the present OA.

4. We have perused the pleadings as well as the points raised in the OA. It was urged by the applicant that he was ill time and again and the respondents were intimated about his illness with the medical certificates. He was not guilty of



unauthorised absence. He was forced to be absent due to illness. We are afraid the contention whether the applicant was in fact ill and thus unable to attend office and whether he has duly intimated about his illness to the respondents, are essentially matters of evidence which cannot be gone into by us in the exercise of judicial review jurisdiction. The enquiry officer having examined PW-1 and PW-2 and relying upon their evidence accepted the same and found that the charge was proved. We will not normally interfere with the conclusions arrived at by the enquiry officer and which have been agreed to by the disciplinary authority. This contention cannot be accepted.

5. The disciplinary authority clearly stated that the applicant though enlisted in 1992 in the initial stage of service he absented himself eight times including the present absence. He was therefore of the opinion that it was not desirable to retain the applicant in service. Taking this view the applicant was dismissed from service. The appellate authority has considered all the pleas raised by the applicant in his appeal and confirmed the order of dismissal from service. He also found that there was no reason to interfere with the punishment awarded to the applicant. In ^{new} of these facts, it is



impermissible for us to interfere with the
impugned orders. The OA therefore fails and is
accordingly dismissed.

S. S.
(Mrs. Shanta Shastry)
Member (A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman (J)

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