

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

13

O.A. NO. 547/1998

New Delhi this the 2nd day of December, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

Jitender Nath S/o Rameshwar Dayal.
R/O C/o Shri Jagdish Soni.
House No.RZ-686 A/1
Raj Nagar-I, Palam Colony,
New Delhi-110045.

...Applicant

(By Advocate Shri B.B.Raval)

-Versus-

1. Union of India through
the Secretary,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi.

2. The Commissioner of Police,
Delhi Police, Police Hqrs.
Near I.T.O., New Delhi-110002.

3. Shri Rajbir Singh,
Head Constable,
Police Training School,
Jharoda Kalan, New Delhi.
C/o Respondent No.2.

...Respondents

(By Advocate Shri H.L.Jad)

O R D E R (ORAL)

Justice Ashok Agarwal:

An order issued against the applicant terminating his services by the Principal of Police Training School, Jharoda Kalan, New Delhi on 14.11.1994 and an order passed by the Commissioner of Police on 14.3.1995 rejecting the representation of the applicant against the order of termination are impugned in the present O.A.

2. Order of termination is impugned on grounds, inter alia, that the same is punitive in nature: the

same amounts to an order of dismissal from service: and since the same has been passed without issuing a show cause notice and without affording a reasonable opportunity of being heard to the applicant. the same is liable to be quashed. Aforesaid order dated 14.11.1994 annexed as Annexure-A to the OA provides as under:-

"In pursuance of the proviso to Rule-5 of the C.C.S. (Temporary Service) Rules 1965, I, Seva Dass, Principal, Police Training School, Jharoda Kalan, Delhi, hereby terminate forthwith the services of Recruit Constable Jitender Nath, No.1484/N and direct that he shall be entitled to claim a sum equivalent to the amount of the pay plus allowances for the period of notice of one month at the same rates at which he was drawing immediately before the termination of his services..."

2. Aforesaid order, as we find, is an order of termination simpliciter. The same does not cast any stigma on the applicant. Applicant was, by an order passed on 4.7.1994, appointed as Constable in Delhi Police. He joined training at the Police Lines, Kingsway Camp, Delhi with effect from 1.8.1994. He was sent to Police Training School at Jharoda Kalan, New Delhi on 16.8.1994. Appointment of the applicant, it is undisputed, was to a temporary post and was liable to be terminated by issue of one month's notice. By the impugned order dated 14.11.1994, applicant's services were terminated. He had been granted a sum equivalent to the amount of the pay plus allowances for the period of notice of one month as provided in proviso to Rule 5 of the C.C.S.(Temporary

N.D.

Service) Rules, 1965. It is true that prior to the issue of the aforesaid order, a show cause notice dated 21.9.1994 was issued to the applicant. The same relates to his unauthorised absence for a period of 14 hours and 45 minutes from 5.50 PM on 22.8.1994. The said show cause notice was not prosecuted and a simple order of termination came to be issued.

3. It has been pointed out on behalf of the respondents in the counter affidavit that the applicant during the short period of training had absented himself wilfully and unauthorisedly on the following occasions:

SI. D.D. Nos. No. & Date of absence.	DD Nos. & date of arrival	Days	Hrs.	Mts.
1. 20/22.8.94	5/23.8.94	-	14	45
2. 28/26.8.94	8/27.8.94	-	18	-
3. 22/12.9.94	24/12.10.94	29	22	40
4. 24/13.10.94	- Till the date of termination (32 days)			
	Total	63	07	25

Hence during the short period of ~~less than~~^{about} two months, applicant had absented himself for 63 days, 7 hours and 25 minutes. It has, ~~further~~^{however}, been pointed out that the applicant has not proved himself to be a good police officer at all. Rather his conduct and performance has been most unbecoming of a police officer as during absence period neither he intimated the department about the circumstances of the absence nor obtained any prior permission from competent authority to avail the medical rest at his home as required under Rule 19 (5) of C.C.S.(Leave) Rules.

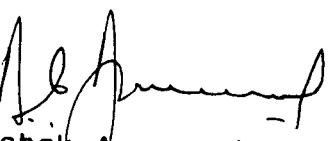
1972 as well as S.O.No.111. Thus the applicant had failed to do so despite issue of absentee notice dated 24.9.1994 with the direction to resume his duty at once. This clearly shows that the medical certificates submitted by the applicant after termination of his services are only to cover up the absence period. This proves that he is most unsuitable, totally unreliable, very careless and therefore, unfit for retention in the police force in all respects.

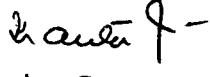
4. In our view this is not a case where an order of dismissal is sought to be passed by issuing an order which apparently reads as an order of termination simpliciter. This is not a case of lifting the veil in order to find that the real nature of the order ^{whether the same} is one of dismissal couched in the form of an order of termination simpliciter. Applicant, it cannot be disputed, was a Constable appointed on temporary basis whose services were liable to be terminated with one month's notice. His performance during the initial stages of training was found unsatisfactory. Hence the impugned order of termination has been issued. We do not find that the same can be successfully assailed in the present O.A. Once the order of termination is found to be justified, the order issued by the Commissioner of Police rejecting the representation of the applicant ^{successfully} also cannot be assailed. In the circumstances we hold that the present O.A. is devoid of merit. The

M.J.

same is accordingly dismissed. However, in the facts and circumstances of the case, there will be no order as to costs.

17


(Ashok Agarwal)
Chairman


(Shanta Shastri)
Member(A)

sns