

Central Administrative Tribunal
Principal Bench

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O.A. No. 631 of 1996.

New Delhi, dated this the 18th November, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Const. (Driver) Jain Narain
No. 4706/PCR (1631 DAP),
II Bn., Delhi Armed Police,
Kingway Camp, New Police Lines,
Delhi.

... Applicant

(None appeared)

Versus

1. Commissioner of Police,
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.

2. Addl. Commissioner of Police (Operations),
Police Head Quarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.

3. Deputy Commissioner of Police,
Police Contro Room, Delhi,
Police Head Quarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.

... Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

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

Applicant impugns the Disciplinary Authority's order dated 27.10.93 (Annexure A); the Appellate Authority's order dated (Annexure B) and the Revisional Authority's order dated 16.3.95 (Annexure C).

2. He prays that the period of alleged absence of 66 days four hours and 40 minutes be treated as period on duty with consequential benefits.

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3. Applicant was proceeded against departmentally on the allegation that he was directed to report 4th Bn. DAP for a basic training on 31.3.92, but he did not report there, and was marked absent. An absentee notice was issued to the defaulter at his residential address which was returned undelivered with the remarks that he was not residing there. Later on he resumed duty on 5.6.92 after absenting himself for 66 days 04 hours and 40 minutes. Upon rejoining duty he gave a statement that he was arrested by Haryana Police in the case FIR/122/92 u/s 18 NDPS Act in P.S. Bahadurgarh, Haryana and remained in judicial custody for about two months. The E.O. in his finding dated 7.1.93 (Annexure E) held the charge as proved beyond doubt. A copy of the E.O's finding was furnished to applicant for making representation, if any. Applicant submitted his representation on 25.1.93 and was also heard in OR by the Disciplinary Authority on 22.1.93.

4. After hearing the applicant and perusing the materials on record, the Disciplinary Authority accepted the I.O's findings and imposed the penalty of reducing in the applicant's pay by three stages for a period of three years with immediate effect in the ~~time~~ scale of pay, during which period applicant would not earn his increments of pay, and on the expiry of the period the reduction would have the effect of postponing his future increments.

5. Meanwhile applicant was suspended and was reinstated with a direction that his suspension period would be decided after the finalisation of the criminal case against him.

6. Applicant's appeal was rejected vide appellate authority's order dated 24.8.94, and the revision petition was also rejected vide revisional authority's order dated 16.3.95, against which this O.A. has been filed.

7. None appeared on behalf of applicant even on the second call when the case was called out although this case is an old case of 1996 and was listed at Serial No.7 of the regular hearing list today. Shri Vijay Pandita appeared for respondents. In view of the absence of applicant or his counsel, we are disposing this case after perusing the materials on record and hearing the respondents' counsel Shri Vijay Pandita.

8. Applicant has not denied that prior to commencement of the training he had proceeded to his village in Haryana to pick up some ~~necessary~~ ^{domestic} articles, where he was arrested by the local police and detained in custody during the period in question. His contention is that in the absence of any male member in his family he could not inform concerned authorities about his detention, but upon his release he immediately informed the authorities ~~immediately~~, which proved that

he was not at fault and his alleged absence from duty was thus neither deliberate nor unauthorised. We are unable to accept this contention of the applicant. As pointed out in the Disciplinary Authority's order, upon being deputed for training vide order dated 31.3.92, he should have immediately reported for duty there, and only after getting permission from the competent authority should he have proceeded to his village. Applicant's contention is that since the authorities never objected to his frequent visits to his village in the past, showed that he enjoyed implied permission to leave the station, has rightly been rejected by the Disciplinary Authority who has pointed out that it is absolutely necessary for every police officer to seek prior permission from the competent authority, and there exists no system of "implied permission."

8. Applicant's plea that his arrest by the Haryana Police and subsequent detention in judicial custody was illegal has also not been accepted by the Disciplinary Authority and in any case does not excuse him for his failure to inform the authorities in time.

9. In the result the O.A. warrants no interference. It is dismissed. No costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

/GK/