

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.729/96

New Delhi, this 24th day of January, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastry, Member(A)

Ashok Agarwal (Constable No.6729 DAP)

Village & PO Atshini

PS Garhmukteshwar

Dt. Ghaziabad(UP)

.. Applicant

(By Shri K.K. Sharma, Advocate - not present)

versus

1. Commissioner of Police
Police Hqrs.

IP Estate, New Delhi
2. Sr. Addl. Commissioner of Police
(AP&T), Delhi

3. Dy. Commissioner of Police
1st Bn DAP, Delhi

.. Respondents

(By Shri S.K. Sinha, proxy for Shri Vijay
Pandita, Advocate)

ORDER(oral)

Hon'ble Shri Justice Ashok Agarwal

Neither the applicant nor his advocate is present.
Heard Shri S.K.Sinha, proxy counsel for Shri Vijay
Pandita, counsel for the respondents. Application is
taken up for hearing on merits under Rule 15 of CAT
(Procedure) Rules, 1987.

2. In the present OA, applicant seeks to impugn the
order of dismissal from service dated 23.5.94 issued by
the disciplinary authority as confirmed by the order
dated 17.10.94 in an appeal by the appellate authority
as also the order passed on 3.6.95 in revision by the
revisional authority. In the disciplinary proceedings
the applicant, who was a Constable with the Delhi
Police, is found to have absented himself without prior
permission during the following periods:

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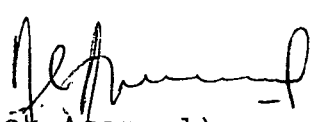
S.No.	Date of absent	Period of absent
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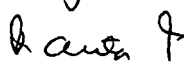
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|----|------------|-------------------------------------------|
| 1. | 13.11.1992 | 29 days and 25 minutes |
| 2. | 30.1.1993 | 1 month, 16 days, 17 hours and 40 minutes |
| 3. | 4.5.1993 | 13 days, 12 hrs. & 25 minutes |
| 4. | 26.5.1993 | 12 days, 22 hrs. & 10 minutes |
| 5. | 8.6.1993 | 1 day and 2 hrs. |
| 6. | 10.6.1993 | 4 days and 20 hrs. |
| 7. | 10.7.1993 | 4 days, 4 hrs & 5 minutes |

The said periods have been directed to be treated as dies non.

3. We have perused the entire records in the present OA and we find that the aforesaid orders have been passed after compliance with the principles of natural justice. When the periods of absence have been treated as dies non, the imposition of penalty of dismissal from service cannot be considered as double jeopardy as is sought to be contended by the applicant. The treatment of absence as dies non is not a punishment in itself. After passing the order of dismissal from service, consequential order for treating the period of absence as dies non is issued. The applicant was a member of the disciplined force and the aforesaid absence without prior permission is therefore a grave misconduct. The penalty of dismissal from service in the present case cannot be held as not commensurate with the gravity of misconduct.

4. The present OA, in the circumstances, is devoid of merit and the same is accordingly dismissed. There shall be no order as to costs.


(Ashok Agarwal)
Chairman


(Smt. Shanta Shastri)
Member(A)

/gtv/