CENTRAL·ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.795/96

New Delhi, this the 9th day of February, 2000.

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. M.P.SINGH, MEMBER (A)

Ex. Constable Ved Parkash No.589/NW, S/O
Sh. Ran Singh, Village Majra Dabas,
P.O.Chand Pur, P.S.Kanjhawala, Delhi.

.....Applicant.

(By Advocate: Sh. Ashish Kalia)

VERSUS

1. Union of India — through The
   Commissioner of Police, PHQ,
   I.P.Estate, New Delhi — 110 002.

2. The Deputy Commissioner of Police,
   NW District, Ashok Vihar Police
   Station, Delhi.

....Respondents

(By Advocate: Mrs. Sumedha Sharma)

O R D E R (ORAL)

Mr. Justice Ashok Agarwal, Chairman:-

MA No. 867/95 for Condonation of Delay in filing the present OA is granted and the delay is condoned.

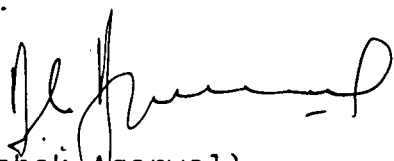2.   We have heard the learned counsel on merits of the OA.

3.   In our view, the present OA deserves to be allowed on the short ground, namely, the disciplinary authority while imposing the penalty of dismissal from service for unauthorised absence has directed the period of leave, be treated as leave without pay. By doing so, the disciplinary authority, while imposing aforesaid penalty, has regularised the unauthorised absence. Once the unauthorised absence is regularised, the impugned
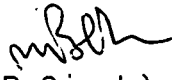
order of penalty cannot be sustained. In the case of
State of Punjab & Ors. Vs. Bakshish Singh, 1998 (2) SC
Service Law Journals page 463, on facts the similar one
arising in the present OA, the order of penalty has been
set aside by observing that unauthorised absence from
duty having been regularised by treating the period of
absence as leave without pay, the charge of misconduct
did not survive.

4.   In the circumstances, the impugned order passed
by the disciplinary authority on 25.2.92 as also the
order passed by the appellate authority on 29.4.93 are
set aside. The respondents are also directed to
reinstate the applicant from service but without
backwages.

5.   The present application is allowed. There will
be no order as to costs.

(Ashok Agarwal)
Chairman

(M.P.Singh)
Member (A)

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