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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.892 of 1996

New Delhi, this 7th day of February, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MR. M.P. SINGH, MEMBER(A)

Hari Singh, Ex-Const. No.3102/PCR
S/o Shri Tara Chand
R/o Village Bajitpur
P.O. Nangal Thakran
New Delhi.
(By Advocate: Shri L.C. Rajput).

... Applicant

versus

1. The Commissioner of Police, Delhi
Police Headquarters
I.P. Estate, New Delhi
2. The Addl. Commissioner of Police
(OPS), Police Hqrs.
I.P. Estate, New Delhi
3. The Deputy Commissioner of Police
Police Control Room
Delhi.

... Respondents

(By Advocate: Shri Anil Singhal, proxy
for Mrs. Jyotshna Kaushik)

O R D E R (ORAL)

Reddy, J.

The OA is liable to be allowed in view of the judgement of the Hon'ble Supreme Court in the State of Punjab & Ors Vs. Bakshish Singh [JT 1997 (7) SC.142].

2. The applicant who was a Constable in the Delhi Police was chargesheeted for unauthorised absence for the periods from 15.2.1994 to 25.2.1994, 5.3.1994 to 29.3.1994 and 2.5.1994 to the date of the issuance of the chargesheet. After an enquiry was conducted, the applicant who was found to be guilty of the unauthorised absence. The disciplinary authority passed an impugned order imposing the punishment of dismissal from service. The appeal also stood rejected.

Reddy

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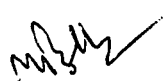
3. The learned counsel for the applicant submits that the disciplinary authority himself has regularised the period of absence. When that has been done, the alleged misconduct of the applicant would not survive. Hence the impugned order of dismissal cannot stand.

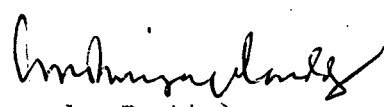
4. Heard the learned counsel for the parties.

5. As seen from the impugned order itself, it is clear that the disciplinary authority has treated the entire period of unauthorised absence as leave without pay. Thus the period of absence has been regularised. When the period has been regularised, it cannot be said that the applicant had committed the misconduct of unauthorised absence. and the misconduct would no longer survive. We are supported by a judgement of the Hon'ble Supreme Court (supra).

6. In the circumstances, the OA is allowed. The order of the disciplinary authority and appellate authority are quashed. The respondents are directed to re-instate the applicant in service within a period of three months from the date of receipt of a copy of this order. However, in the facts and circumstances of the case, we order that backwages need not be paid for the period the applicant was out of job. But this period however shall not be treated as break in service.

No order as to costs.


(M.P. Singh)
M(A)


(V. Rajagopala Reddy)
VC(J)

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