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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2350 OF 1997

New Delhi, this 31st day of May, 2000

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VC(J)
HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

Bharat Veer Singh
S/o Shri Dharam Pal Singh
R/o Village and P.O. Ailum
P.S. Kandhalia, Dist. Muzaffar Nagar
U.P. ... Applicant

(By Advocate:Shri R.S. Malik - not present)

versus

1. Union of India, through
Secretary
Ministry of Home Affairs
North Block
New Delhi.
2. Delhi State,
Through its Secretary
Old Secretariat
Delhi.
3. Commissioner of Police
Police Head Quarters
New Delhi.
4. Senior Additional Commissioner of Police
AP & T, Police Head Quarters
M.S.O. Building, I.P. Estate
New Delhi.
5. Deputy Commissioner of Police
IInd Bn. DAP
Delhi. ... Respondents

(By Shri Harvir Singh, Advocate)

Order (oral)

By Reddy, J.

The applicant, a Constable in Delhi Police, was proceeded against in a departmental proceeding for gross misconduct, negligence and indiscipline. While he was posted in No.2 Bn DAP, Delhi he absented himself from duty unauthorizedly and without any intimation, on several occasions. His plea was that his mother

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was ill and he was not granted leave. He was also absent on some occasions on grounds that he was suffering from Dysentery and the illness of his wife. The enquiry officer found that the applicant was guilty of the charge. The disciplinary authority after considering entire evidence on record and the evidence recorded in the enquiry, passed the impugned order dated 17.4.1996, dismissing him from service. The said order has been affirmed by the appellate authority as well as revisional authority. The present OA is filed aggrieved by the order of dismissal.

2. None appears for the applicant nor any representation is made on his behalf. Heard the counsel for the respondents. As the matter is of 1997, we have proceeded to dispose of the case on merits, on the available pleadings.

3. We have considered the order of the disciplinary authority, the appellate authority as well as the revisional authority. The enquiry officer after the enquiry submitted his findings to the disciplinary authority on 11.9.1995 holding the applicant guilty of the charge. A copy of the enquiry officer's findings was delivered to the applicant on 6.9.1995 but the applicant, in spite of giving several opportunities, did not make any representation.

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He was also given the opportunity to appear in person by the disciplinary authority. He however appeared on 8.4.1996 before him and during his personal hearing he adduced nothing except reiterating the explanation given earlier. He did not make any representation to the findings of the enquiry officer. The disciplinary authority after going through the enquiry file and the evidence on record, giving valid and cogent reasons, found that the applicant was guilty of the charge. Finding that the applicant was a habitual and incorrigible type of absentee, he was found not fit to ^{be retained} in police force and was therefore dismissed from service. The appellate authority as well as the revisional authority have considered the pleas raised and after giving detailed reasons, disposed them rejecting the same.

4. In the OA the applicant raises grounds as to the appreciations of evidence awarded by the enquiry officer stating that he was innocent and being ill he could not attend the office. This Tribunal cannot go into the question either of appreciation of evidence or the sufficiency or otherwise of the evidence to establish the charge. We find that the enquiry is consistent with the rules. As the findings are based upon the evidence recorded by the enquiry officer, it is not possible for us to interfere with the findings of the disciplinary authority.



5. As regards the punishment of dismissal, the disciplinary authority having heard the chronic absenteeism found that the applicant was unfit to be retained in service, hence inflicted the punishment of dismissal. The punishment cannot be said to be severe and disproportionate to the misconduct or arbitrary.

6. In the circumstances, the OA fails and is accordingly dismissed.

Shanta S
(Mrs. Shanta Shastry)

Member(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman(J)

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