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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2368/1997

New Delhi this the 12th day of September, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

Shri Udal Singh
S/o Shri Mahavir Singh
R/O Village & P.O.Bamoti
Distt. Aligarh, (U.P.)

... Applicant

(None for the applicant)

-versus-

1. Union of India through
Commissioner of Police
Delhi Police,
Police Headquarters,
MSO Building, I.P.Estate,
New Delhi.
2. Dy. Commissioner of Police,
10th Bn., DAP
Delhi.
3. Deputy Commissioner of Police
VIIth Bn., DAP
Delhi.
4. Additional Commissioner of Police
AP & T, Delhi. ... Respondents

(Shri Anil Singhal, proxy for Mrs.Jasmine
Ahmed, counsel)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant and his advocate are absent. We have heard Shri Anil Singhal, proxy for Mrs.Jasmine Ahmed, counsel for the respondents. We have also perused the record of the case and we proceed to dispose of the OA on merits in the absence of the applicant and his advocate in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. By the present OA, applicant seeks to impugn

an order issued by the Deputy Commissioner of Police on 5.11.1993 in disciplinary proceedings conducted against him ~~and~~ ^a imposing the penalty of dismissal from service. Aforesaid order of the disciplinary authority was carried by the applicant in appeal and the Additional Commissioner of Police being the appellate authority, by his order issued on 13.4.1994 has maintained the aforesaid penalty of dismissal from service and has dismissed the appeal. Aforesaid orders ~~was~~ ^e thereafter carried by the applicant in revision. The same was not entertained as it was filed on 15.6.1994 whereas the provision for filing a revision application came into force a few days later i.e. on 29.6.1994. Applicant, in the circumstances, has presented the present OA impugning the aforesaid orders.

3. Applicant at the material time was a Constable in Delhi Police. While on duty, he had unauthorisedly absented himself from duty on various occasions. The ^{periods} ~~purpose~~ of absence can be noticed by the following allegations which are contained in the chargesheet issued against him:-

"...on the allegations that while posted in 7th Bn. DAP, he absented himself from evening Roll Call on 3.7.92 and was marked absent vide DD. No.73. He resumed his duty vide DD No.48 dt.8.7.92, after absenting himself for a period of 4 days 22 hrs. and 40 minutes willfully and unauthorisedly. He again absented himself from evening Roll Call on 10.7.92 and was marked absent vide DD No.81. An absentee notice was sent at his home address vide this office memo No.5629/ASIP/AC/7th Bn. DAP dt.21.7.92, through Sr.Suptd.of Police, Distt. Aligarh, U.P. directing him to report for duty at once failing which departmental action under the provisions of Delhi Police Act, 1978 will be taken against him. In response to the

said absentee notice he sent a letter mentioning therein that his C.L./E.L. applications were kept pending by the CHM of his Coy. But on scrutiny of the relevant record it is found that no leave applications were submitted by him to CHM. He had also submitted his resignation on dt.22.7.92. Before his resignation could be considered he made his arrival vide D.D.No.34 dt.24.8.92 after absenting himself for a period of 44 days 16 hrs. and 30 minutes wilfully and unauthorisedly.

Next day on 25.8.92 he again absented himself from evening Roll Call. Accordingly he was marked absent vide DD No.79 dt.25.8.92. He was directed vide this office memo No.6713/ASIP/7th Bn.DAP, dt.8.9.92 to appear before the undersigned on 14.9.92 at 10.00 A.M. failing which departmental action will be taken against him. He did not bother to appear before the undersigned on 14.9.92 even after noting the contents of the memo on 12.9.92 and made his arrival vide DD. No.48 dt.14.9.92 after absenting himself for a period of 19 days 20 hrs. and 5 minutes wilfully and unauthorisedly. He again absented himself from Police Complex, Malaviya Nagar on 19.9.92. Accordingly he was marked absent vide DD. NO.25 dt.19.9.92. An absentee notice was sent to his home address through Sr.Suptd. of Police, Distt. Aligarh, U.P. vide this office memo No.6918 ASIP/7th Bn. DAP dt.23.9.92 directing him to report for duty at once failing which departmental action will be initiated. As per report of the local police he stated that he was ill and he will join his duties on 12.10.92, but did not send any medical papers. He reported back on 16.10.92 vide DD No.50 after absenting himself for a period of 27 days and 5 hrs. wilfully and unauthorisedly. He again absented himself from the evening Call on 17.10.92 and was marked absent vide DD No.22 dt.(sic). An absentee notice was again sent to his home address through Sr.Suptd.of Police Distt. Aligarh, U.P. vide this office memo No.8301/ASIP/7th Bn.DAP dt.22.10.92 directing him to report for duty immediately. He sent a letter which was received in this office on 26.10.92 requesting therein that he was running absent due to his illness and his resignation may not be accepted. In response to his above letter he was directed to appear in person before the undersigned within a week's time alongwith his medical record vide this office memo No.8640/ASIP/7th Bn.DAP dt.12.11.92. He made his arrival vide DD.No.37 dt.13.11.92, after absenting himself for a period of 27 days 1 hrs and 35 minutes wilfully and unauthorisedly. Thereafter he again absented himself from duty on 14.11.92 and was marked absent vide DD No.2 dt.14.11.92. He was asked vide this office memo No.8956/ASIP/7th

Bn.DAP dt. 13.11.92 to appear before the undersigned in person in connection with his problems, if any failing which a departmental action will be taken against him. He made a request through a registered letter received in this office on 8.12.92 requesting therein that he will appear before the undersigned on 10.12.92 but he neither resumed his duties nor appeared before the undersigned and since then he is running absent. He has thus violated S.O.No.111 and Rule 19(5) of C.C.S. (Leave) Rules, 1972.

The above act of Const. Udal Singh No.8379/DAP amounts to gross misconduct and unbecoming of a Govt.servant. On scrutiny his past record it has found that he remained absent on as many as 33 occasions for which he was awarded major/minor punishments which shows that he is habitual absentee and is liable for deparatmental action under section 21 of Delhi Police Act, 1978"

4. Based on material evidence which was adduced in the departmental enquiry, the enquiry officer, the disciplinary authority as also the appellate authority have concurrently found the applicant guilty of the unauthorised absence during the aforesaid periods. In our view, no case is made out for interference with the aforesaid findings which are based on material which has come on record in the disciplinary proceedings. Principles of natural justice have been duly followed and applicant has been given adequate opportunity to defend himself and to make representations at each stage of the enquiry. In the circumstances, the finding of guilt arrived at by the aforesaid authorities are maintained.

5. If one has regard to the consistent absence, the finding is irresistible that the conduct of the applicant has been ~~as~~ such as ^{that} ~~one~~ ~~who~~ does not deserve to be continued in police force which is supposed to be a disciplined force. Contumacious attitude of the

applicant which practically amounts to desertion from duty renders him unfit for continuing in the police force. The penalty in the circumstances imposed upon him is fully justified.

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6. Present OA in the circumstances, we find is devoid of merit. The same is accordingly dismissed. However, there will be no order as to costs.

(Govindan S. Tampi)
Member (A)

sns

(Ashok Agarwal)
Chairman