

10

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2432/1997

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

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Constable Shamsher Singh
S/o Shri Dilip Singh
R/O Village & P.O. Singhapura Kalan
Distt. Rohtak, (Haryana)

... Applicant

(By Shri U. S. Srivastava, Advocate)

-versus-

1. Commissioner of Police
Delhi Police,
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.

2. Dy. Commissioner of Police,
HQ (I) Delhi III Bn D.A.P
Delhi.

... Respondents

(Shri Mohit Madan, proxy for
Mrs. Avnish Ahlawat, Counsel)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

By the present OA, applicant seeks to impugn the order passed by the Additional Commissioner of Police on 4.7.1994 imposing a penalty of forfeiture of 5 years' approved service permanently for a period of 5 years in disciplinary proceedings conducted against him.

2. Aforesaid Additional Commissioner of Police has passed the aforesaid order in his capacity of being the appellate authority over the Deputy Commissioner of Police who was the disciplinary authority. Aforesaid disciplinary authority had earlier on 6.11.1987 ~~had~~ found the applicant guilty of unauthorised absence during 20 occasions between

S.P.

15.2.1987 and 14.7.1987 and had imposed a penalty of dismissal from service. Aforesaid order was carried by the applicant in an earlier appeal and the appellate authority by an order passed on 1.3.1988 had dismissed the same. Applicant had thereafter instituted in this Tribunal OA No.1347/89. By judgement and order passed on 22.3.1994 aforesaid order of the appellate authority was set aside and the matter was remanded back to the appellate authority with a direction to hear and dispose of the appeal and give its finding in regard to the allegation of unauthorised absence during the period 1.7.1987 to 14.7.1987 and thereafter pass an order of penalty other than the one of dismissal from service. By the impugned order now passed by the appellate authority on rehearing of the appeal in terms of the directions issued by the Tribunal, the appellate authority has found the applicant guilty of unauthorised absence for the period of over 12 days from 1.7.1987 to 14.7.1987 and has proceeded to pass the following order of penalty against the applicant:-

"...I hereby order for the forfeiture of his five years approved service permanently for a period of five years. As the appellant had earned only two increments upon refixation of his salary consequent upon the implementation of Pay Commission's report w.e.f. 1986, the pay of Const. Shamsher Singh No.2199/DAP is, therefore, reduced by two stages only from Rs.990/- to Rs.950/- (which is the minimum of the scale in the time scale of pay Rs.950-20-1150-EB-1400) for a period of five years with effect from the date of issue of the order. He will not earn his increments of pay during the period of his reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay."

Aforesaid order passed by the appellate authority is

impugned in the present OA.

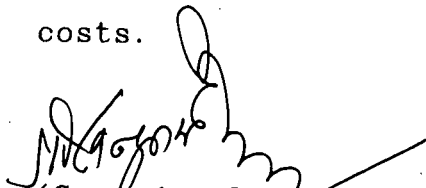
3. Shri U.Srivastava, learned counsel appearing on behalf of the applicant has vehemently contended that the aforesaid order of pently is far too excessive as the applicant has been found unauthorisely absent only for a period of ~~over~~ 12 days. In our judgement, aforesaid contention has to be merely mentioned for the purpose of the same being rejected. Apart from the unauthorised absence, the appellate authority has taken into account the conduct displayed by the applicant during the disciplinary proceedings which is evident from the following passage to be found in the order of the appellate authority:-

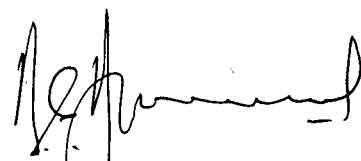
"The contention of the appellant that he was ill during the period of his absence for 12 days is devoid of force. The appellant unauthorisedly withdrew himself from duty on 14.7.1987 and returned on 27.7.1987 without submitting a cogent explanation. No mention of sickness or grant of medical rest by a doctor was mentioned in the arrived D.D.entry. It was during the D.E. proceedings that he filed the medical certificates for old period i.e. from 2.7.87 to 8.7.87 to 12.7.87 (issued to him by Govt. dispensary) and for the period from 14.7.87 to 1.8.87 (though he had joined on 27.7.1987) issued by a Rohtak Doctor. This proved that the appellant had not only withdrawn from duty without any authority/permission but had also gone to Rohtak beyond the limit of U.T.of Delhi on 14.7.87 without permission which is a mandatory requirement. The medical certificates from Doctor in Rohtak in which the doctor certified that the appellant had remained under his tareatment till 1.8.1997 is clearly misleading and fraudulent as the appellant had already joined duty before this date on 27.7.87. He is thus guilty of playing a deliberate fraud on the Deptt."

4. The appellate authority, it is thus clear, has found the applicant responsible for misleading the

13/

authorities by procuring false and fabricated medical certificates from a different area while he had already rejoined and was on ~~leave~~^{duty} at the headquarters. Though he had reported back for duty on 27.7.1987, he had produced a medical certificate from a Doctor at Rohtak for the period ~~14.7.1987 to 1.8.1987~~^{after 27.7.1987 and upto 1.8.1987 and that} ~~i.e. an~~^{to from a place} area beyond the limits of Union Territory of Delhi. In the circumstances, we do not find that the order of penalty is in any way disproportionate to the finding of guilt arrived at against the applicant. Applicant, it is clear, has now been reinstated in service. No other contention has been advanced by Shri Srivastava in the present OA. The same is, in the circumstances, dismissed. However, there will be no order as to costs.


(Govindan S. Tampi)
Member (A)


(Ashok Agarwal)
Chairman

sns