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7.12.1998

MA 2023/98 in OA 2522/97

Present:- Sh. Ashish Kalia, counsel for applicant.
Sh. Ishwar Siongh, Deptt. Repn. on behalf
of respondents.

At the request of departmental representative,
the matter is adjourned to 9.12.1998.

person, the hearing of this matter is adjourned to 8.12.1998.

RK
(R.K. Ahooja)
Member (A)

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9-12-98

Present:- Sh. Ashish Kalia adv. to applicant-
Sh. Anoop Bagai adv. to respondents-

Argument heard order reserved by Mr
Deputy Secy Mr. R.K. Ahooja M.A.

18-12-98

COED
9/12/98

Order pronounced today in
open court NO 2, OA dismissed by
a SB of H.A. by Sh. R.K. Ahooja, M.A.

COED
9/12/98

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.2522/97

New Delhi this the 16th Day of December, 1998.

Hon'ble Mr. R.K. Ahooja, Member (A)

Const. Jaswant Singh, No. 400RB
Delhi Police Lines,
Rashtrapati Bhawan,
New Delhi-110 001.

Applicant

(By Advocate: By Advocate: Shri Ashish Kalia)

-Versus-

1. The Commissioner of Police,
Police Headquarters,
Indraprastha Estate,
New Delhi-110 002.

2. The Deputy Commissioner of Police,
Rashtrapati Bhawan,
New Delhi.

Respondents

(By Advocate: Shri Anoop Bagai)

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant, a Constable in Delhi Police, was granted 30 days earned leave from 1.2.1996 to 1.3.1996 as his wife was in advance stage of pregnancy. The applicant, however, failed to report on duty after the expiry of his earned leave. He finally reported back on 15.5.1995. His grievance is that though he had sent applications for extension of leave on the ground of illness of his wife, as well as infant baby duly supported by the Certificate from Government Authorised Medical Attendant, the respondents issued him a show cause notice and then by the impugned order A-1 treated his absence of 74 days and 22 hours as Leave Without Pay.

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2. The respondents in the reply have stated that as the applicant did not report back on duty after the expiry of his earned leave, absentee notices were issued to him but he failed to respond thereto and continued to be absent without sanction of leave.

3. I have heard the counsel. Shri Ashish Kalia, learned counsel for the applicant, argued that the authorities could not refuse the extension of leave as the request was duly supported by the certificates from the doctors of Government Hospital. He pointed out that in case there was any doubt about the veracity of these certificates, the respondents should have asked for a second opinion. This was, however, not done. In view of this position, he submitted that the respondents be directed to grant leave to the applicant of the kind due.

4. I have considered the matter carefully. Request for extension of leave were duly supported by the Medical Certificates regarding the illness of his wife and the infant baby. Nevertheless, as urged by Shri Anoop Begai, learned counsel for the respondents, leave cannot be claimed as a matter of right and a balance has to be maintained between requirement of duty and personal problems. It may be that there was nobody else to look after his wife and the infant baby in the village but unauthorised absence for such a long period will indicate that the applicant placed greater emphasis on his domestic problems than the demands of duty. In any case the impugned order has been passed after giving a show cause notice to the applicant and after giving him due opportunity to present his case.

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5. No other points has been raised by the applicant in O.A. I, therefore, find no ground for interference. O.A. is accordingly dismissed.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

Mittal