

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 413/97

New Delhi this the day of 22nd May 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. V.K. MAJOTRA, MEMBER (A)

Ajmer Khan  
(542/DAP)  
S/o Abdul Gani,  
R/o F 20/8A, Subash Mohalla,  
Gali No.8, Shahdara,  
Delhi.

...Applicant

(By Advocate: Shri Shyam Babu)

Versus

1. Commissioner of Police,  
Delhi, Police Headquarter,  
I.P. Estate, New Delhi.
2. Sr. Addl. Commissioner of Police (AP&T)  
Police Headquarter,  
I.P. Estate, New Delhi.
3. Dy. Commissioner of Police,  
Ist. Bataillon, DAP,  
Delhi, Kingsway Camp,  
New Delhi.

..Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER (Oral)

By Mr. Justice Ashok Agarwal, Chairman

An order imposing penalty in disciplinary proceedings conducted against the applicant is impugned in the present O.A. Order impugned is dated 18.6.96. Prior to the issue of the aforesaid order, orders of dismissal from service were issued against the applicant on 27.9.90. Aforesaid order of dismissal from service was set aside by this Tribunal by an order passed on 16.4.96 in OA-2052/91 and the matter was remitted back to the Disciplinary Authority for imposing a penalty other than that of dismissal from service. Disciplinary Authority has thereafter passed the present order of 18.6.96 which imposes the following penalty:-

"Therefore, I, D.T. Barde, Dy. Commissioner of Police, Ist Bn. DAP, Delhi hereby award a punishment of forfeiture of 5 years approved service with cumulative effect entailing reduction in his pay. Accordingly the pay of Constable Ajmer Khan No. 542/DAP is reduced by five stages from Rs. 1150/- P.M. to Rs. 1050/- P.M. in the time scale of pay for a period of five years with immediate effect. He will not earn increments of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. The period from 4.5.90 to 26.9.90 during which Const. Ajmer Khan No. 542/DAP remained under suspension and the period from 27.9.90 to 5.6.96 during which he remained dismissed will be treated as not spent on duty for all intents and purposes".

2. As far as the initial part of the penalty is concerned, the same in view of a decision of the Full Bench of this Tribunal in the case of ASI Chander Pal Vs. Delhi Administration and another in OA No. 2225/93 dated 18.5.99 to same can justifiably be imposed. The same, therefore, cannot be successfully assailed at least as far as this Tribunal is concerned, <sup>and</sup> the same is accordingly affirmed.

3. As far as the later part of the penalty is concerned, reliance is placed on FR-54-A(3) which reads as under:-

If the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as

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duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be".

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4. In our view, aforesaid provision will be wholly in-applicable in the instant case as this is not a case where an order of dismissal, removal or compulsory retirement has been set-aside on merits. This is a case where a lesser penalty than the penalty of dismissal, removal or compulsory retirement has been imposed on the applicant. As far as the ~~aforesaid periods~~ <sup>from</sup> ~~are concerned, during~~ the period 4.5.90 to 26.9.90, <sup>is concerned</sup> applicant was under suspension. No ~~exception~~ <sup>exception</sup> assertion can be ~~made~~ against the order treating the aforesaid period as not spent on duty. As regards the further period namely, from 27.9.90 to 5.6.96 during which the earlier order of dismissal had remained in force, the said period would tantamount to a period during which applicant would be deemed to be under suspension. Hence no ~~assertion~~ <sup>exception</sup> can be ~~made~~ <sup>in regard to</sup> against the order treating the said period also as not spent on duty.

5. On the foregoing reasons, we find that the present OA is devoid of merit. The same is accordingly dismissed. No order as to costs.

V.K. Majotra

(V.K. MAJOTRA)  
MEMBER (A)

Ashok Agarwal

(ASHOK AGARWAL)  
CHAIRMAN