

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 838 of 1997

New Delhi, this 23rd day of the October, 2000

Hon'ble Mr. Justice Ashok Agarwal, (Chairman)
Hon'ble Mr. M.P. Singh, Member(A)

Ex. Constable Shri Harbin Singh No.2651/DAP
S/o Shri Nain Singh
R/o Village-Arya Nagar, P.O. Arjun Garh,
P.S. Mehrauli, Delhi ... Applicant

(By Advocate: Shri Sachin Chauhan, proxy counsel for
Sh. Shankar Raju)

Versus

Union of India through

1. The Secretary,
Ministry of Home Affairs,
North Block, New Delhi
2. Sr. Addl. Commissioner of Police
Police Head Quarters,
I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police
3rd Bn, D.A.P.,
New Police Lines, K.W. Camp,
New Delhi.

.... Respondents

(By Advocate: Shri George Paracken)

ORDER (oral)

Hon'ble Mr. M.P. Singh, Member(A)

1. The applicant has filed this OA under section 19 of Administrative Tribunals Act, 1985 challenging the order dated 15.10.1996 passed by the Respondent No. 3 and order dated 13.12.1996 passed by Respondent No. 2, whereby the applicant has been dismissed from service and his appeal against the dismissal order has been rejected respectively.



(11)

2. The brief facts of the case as stated by the applicant are that he was appointed as Constable in Delhi Police on 5.2.1993. While working as Constable, he went on leave on account of severe illness of his son who later on expired and thereafter, on account of his illness due to the serious ailment of lever. He remained off from duty for a period of about 73 days. He was placed under suspension on 1.9.1995 and a departmental enquiry was ordered against him on 29.11.95. On the ground of his allegedly remaining absent for a period of 74 days as well as on the ground of previous records, the applicant was issued charge-sheeted for his willful absence as per details given below:

1. D.D.No.53 D.D.No.37 1 day 22 hrs. 30 mts.
27.6.1995 29.6.95
2. D.D.No.41 D.D.No.47 73 days 7 hrs. 30 mts.
30-6-95 11-9-1995

3. In the enquiry conducted against the applicant, the charges were held proved. In this regard the applicant was given a copy of the findings of the enquiry officer asking him to give his representation. The applicant has not submitted his representation and the disciplinary authority after taking into account the findings of the Enquiry Officer, passed the order of dismissal from service. He has filed his appeal against the order of dismissal and the same was rejected by Sr. Addl. Commissioner of Police. Aggrieved by this, he has filed this OA challenging the aforesaid orders mentioned in para 1.



(2)

4. The respondents have contested the case and have stated that the applicant was found unauthorisedly and willfully absent from the duty for the period from 27.6.1995 to 11.9.1995. He was placed under suspension and an enquiry was ordered to be conducted against him. Enquiry Officer has completed the enquiry and the findings of the enquiry are that charges stands proved. The applicant was given ample opportunities during the enquiry conducted to cross-examine the PWs which the applicant failed to do so. The applicant was called upon to show cause and a copy of the enquiry report was sent to him. He has failed to make his representation. After taking into account the findings of the enquiry officer, he was dismissed from the service. An appeal was filed by the applicant which was also rejected.

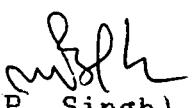
5. Heard both the learned counsel for the rival contesting parties and perused the records.

6. It is seen from the records that the applicant was absent from duty without getting his leave sanctioned. An enquiry was conducted against him and he was given due opportunity to defend his case. This enquiry against the applicant was held in accordance with the rules and instructions on the subject. Learned counsel for the applicant has submitted that the quantum of punishment imposed on the applicant is not commensurate with the misconduct alleged to have been committed by him. It is a settled principle^{of} law by the Supreme Court that this Tribunal cannot act as

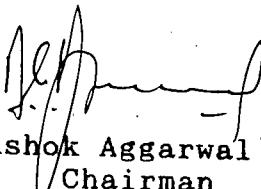


(13)

Appellate Authority and cannot go into the quantum of punishment imposed by the disciplinary authority. In view of the aforesaid reasons, the OA is devoid of merits and liable to be dismissed. We do so accordingly. There shall be no order as to costs.


(M.P. Singh)

Member(A)


(Ashok Aggarwal)

Chairman

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