

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA No. 843/1997

New Delhi, this the 18th day of September, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri K. Muthukumar, Member (A)

Shri Harvir Singh,
Son of Shri Ram Kumar,
Resident of 444 Nagal Rai,
Janak Puri,
New Delhi

Petitioner

(By Advocate: Ms. Jasvinder Kaur))

-Versus-

1. Commissioner of Police,
Delhi Armed Police,
Police Headquarters,
I.P. Estate,
New Delhi.
2. Addl. Commissioner of police/AP & T,
DAP Police Headquarters,
I.P. Estate, New Delhi.
3. Deputy Commissioner of Police,
II BN, DAP: Delhi Respondents

(By Advocate: Ajesh Luthra proxy for
Jyotsana Kaushik)

O R D E R (ORAL)
[Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)]

The petitioner was departmentally proceeded against for being absent in recurring manner. The original punishment awarded by the disciplinary authority was enhanced by the appellate authority and a penalty of removal from service was awarded after a show cause notice to the petitioner. The show cause notice was not replied by the petitioner either. On the previous date of hearing we noticed that issuance of a show cause notice for enhancement of penalty is visualised under Rule 25(b) of the Delhi Police (Punishment & Appeal) Rules, 1980 and the appellate authority has passed this order on the past

misconduct amounting to wilful and unauthorised absence on 23 occasions. There was an apprehension that the said past misconduct was not the part of the original charge and if so they would have followed rule 16(ii) of the said Rule.

Counsel for the respondents sought some time to produce the original file and has produced the same today to satisfy the court that the past misconduct of the petitioner was also a part of both the summary of allegations as well as the charge.

We do not find any other ground to interfere with this order of punishment or the order passed in appeal. The disciplinary authority was satisfied that the petitioner was not fit for retaining in the service after recording a finding that the petitioner has shown complete unfitness to be retained in service ⁱⁿ ~~in~~ ^{terms of} the decision of the Hon'ble Supreme in Dalip Singh's case.

The counsel for the petitioner, on the other hand, submitted that the respondents in a similar case had not awarded the punishment of removal to the said Constable who had been absent for 283 days while the petitioner was absent only for 215 days. We are unable to pass any order treating this as discriminatory action ~~in~~ in the hands of the respondents. Since the punishment awarded to the petitioner is only a removal due to chronic absence and the said order does not debar the petitioner for re-employment and if the petitioner is still willing to join the

department he may represent ^{to} the respondents and respondents may consider the same in accordance with law.

In view of the circumstances, this OA is disposed of with no order as to costs.



(K. Muthukumar)
Member (A)



(Dr. Jose P. Verghese)
Vice-Chairman (J)

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