

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2084/94

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NEW DELHI THIS THE 21st DAY OF MAY, 1997.

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.S.P.BISWAS, MEMBER(A)

1. Islamuddin
S/o Sh.Mauj Khan
R/o Village & P.O.Nai
District Gurgaon
Haryana
 2. Ikramuddin
S/o Sh.Sher Ali
R/o Village & P.O.Gurana Road
Near Khawaja Dawakhana
Baraut
District Meerut
U.P.
- Applicants

(BY ADVOCATE SHRI SHANKER RAJU)

vs.

1. Commissioner of Police Delhi,
Delhi Police Headquarters, M.S.O.Bldg.
I.P.Estate, New Delhi.
 2. Additional Commissioner of Police(S&T)
Delhi Police Headquarters, M.S.O.Bldg.
I.P.Estate,
New Delhi.
 3. Additional Deputy Commissioner of Police
E Block
Near South Block
Parliament House
Security,
New Delhi.
- ... Respondents

(BY PROXY COUNSEL SHRI D.MUKHERJEE
FOR SHRI ANOOP BAGAI, COUNSEL FOR
THE RESPONDENTS)

ORDER

JUSTICE K.M.AGARWAL:

By this joint application under Section 19 of the Administrative Tribunals Act, 1985, two Constables in Delhi Police have made a prayer for their reinstatement in service after quashing the orders of removal passed against them by the disciplinary authority and affirmed in appeal by the appellate authority.

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2. It appears that both the applicants were posted in 'E' Block Security for duty with Shri Arif Mohd. Khan (PP) of 'Z' category. On 24.4.1991, Shri Arif Mohd. Khan "went to Behraich(U.P.) without PSOs due to short programme but suddenly the programme of the PP was changed and he decided to stay for sometime more .." Accordingly, it appears that on 30.4.1991, both the applicants were sent to Behraich with one pistol 12 live cartridges and two railway warrants from Delhi to Lucknow and return. It was alleged that they did not report for duty. One of them was found to be 20 days' absent and other was found to be 74 days' absent from service. On these charges, they were subjected to departmental enquiry, found guilty and accordingly served with the aforesaid orders of punishment. Being aggrieved, they have approached this Tribunal.

3. After hearing the learned counsel for the parties, we find certain procedural defects in the enquiry. As a result, one course open to us is to set aside the impugned orders and send back the case to the disciplinary authority for de novo enquiry from the stage the defects were committed. The other course is to direct reinstatement of the applicants as was done in other similar cases, on the ground of delay in disposal of this application and unnecessary further delay in the enquiry by the disciplinary authority without backwages and claim for seniority. In the circumstances of the case, we opt for the second course. Accordingly, we dispose of this OA by directing

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the respondents to reinstate the applicants in service without any backwages and without any claim for seniority on the basis of their past service. The applicants have also furnished an undertaking in writing that they would not claim backwages or seniority in case they were directed to be reinstated in service. Accordingly, we dispose of this application with the said direction. We further direct that only for the purpose of post retirement benefits, the period between the date of removal and the date of reinstatement shall be considered to be qualifying service though for that period they would not be entitled to claim or receive any salaries.

4. This order shall be complied with by the respondents by reinstating the applicants in service within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

K.M. Agarwal

(K.M. AGARWAL)
Chairman

S.P. Biswas

(S.P. BISWAS)
Member(A)

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