

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1156/94

NEW DELHI THIS THE 18th DAY OF JANUARY, 1995.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUDIYAL, MEMBER(A)

Shri Gajender Singh
S/o Shri Bhu Dev Singh
R/o Village & Post Office Astauli
PS.sikandarbad
District Bulandshehr
UP.

APPLICANT

BY ADVOCATE SHRI J.P.VERGHESE.

Vs.

1. The NCT of Delhi
through its Chief Secretary
Old Secretariat
Delhi.
2. The Commissioner of Police
Police Headquarters
I.P.Estate
New Delhi 110 002. ...

RESPONDENTS.

ORDER(ORAL)?

JUSTICE S.K.DHAON:

The applicant, a constable in the Delhi Police, was subjected to disciplinary proceedings. On 22.3.1993, the disciplinary authority(the Deputy Commissioner of Police) passed an order of dismissal from service. On 11.5.1993, the appellate authority(the Additional Commissioner of Police) dismissed his appeal. The two orders are being impugned in the present OA.

2. The applicant was given a summary of allegations. Thereafter, in accordance with Rule 16 of the Delhi Police (Punishment & Appeal) Rules, the inquiry officer framed charge against the applicant. The charge, in substance, is that while posted at Police Station Trilok Puri, the applicant proceeded on 5 days' medical rest. He was to rest at his residence. He was due to resume his duty on 30.11.1991 but he failed to do so. He was marked absent with effect from 30.11.1991. Absentee notices were issued to him on 10.4.1992 and 25.2.1992. He was directed to resume duty. He was also directed to report to the Civil Surgeon, Civil Hospital, Rajpur Road, Delhi for second medical examination, if he was sick. He noted the

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contents of absentee notices . He neither resumed duty nor he reported to the Civil Surgeon, Civil Hospital, Rajpur, Delhi. However, on 9.10.1992, he came to join duty. Thus, he absented himself wilfully, deliberately and without any information/permission of the competent authority. The said act on his part amounted to grave misconduct in the discharge of his official duties.

3. The inquiry officer found that the charge had been brought home to the applicant and he submitted his report to the disciplinary authority. A show-cause-notice was issued by the disciplinary authority in which it was stated that the applicant absented himself from duty for 10 days 8 hours and 50 minutes. The contents of the charges were reproduced in the show-cause-notice. The applicant submitted a reply. In the reply, his emphasise was that before the inquiry officer, he had submitted a medical certificate dated 28.11.1992 of the Swami Dayanand Hospital, Shahadra. This certificate authorised a medical rest to him from 28.11.1991 to 8.10.1992.

4. The disciplinary authority by a well-reasoned order, refused to accept the reply given by the applicant to the show cause notice. He also gave him a personal hearing. In reply to the applicant's contention that the inquiry officer has not accepted the medical certificate submitted by him as a proof that he was on medical rest, the disciplinary authority has pointed out that since the applicant was directed to report to the Civil Surgeon, Civil Hospital, Rajpur Road Delhi and since he neither reported there nor sent any information regarding his illness to the department, therefore, the inquiry officer rightly rejected the plea of medical certificates. The inquiry Officer, in fact, admitted the medical certificates on record but he did not attach any evidentiary value to the same. It was obligatory upon the department to

send the applicant for second medical check up after he resumed duty on 9.10.1992. The Civil Surgeon was requested to take necessary action by letter dated 25.2.1992 . The applicant having failed to approach the Civil Surgeon, he could not insist upon a second medical examination. The disciplinary authority rejected the plea of the applicant that he had sent an application seeking permission to avail of medical rest under postal certificates dated 10.12.1991 and 2.12.1992. The disciplinary authority has recorded a finding that no such certificates were received. The disciplinary authority has also recorded a finding that by his deliberate absence, the applicant has committed a grave misconduct.

5. The appellate authority have given reasons in support of its order. He has dilated upon the fact that the applicant had been sent two absentee notices directing him to resume duty and also to report to the Civil Surgeon/ for a medical-check. It also observed that a perusal of the record shows that the applicant is a regular absentee having absented himself on 18 earlier occasions for various periods. He has rejected the case set up by the applicant that he fell sick as unbelievable.

6. The learned counsel for the applicant has strenuously urged that the authorities acted arbitrarily in not accepting the contents of the medical certificate of Swami Daya Nand Hospital, Shahdra, Delhi produced by the applicant. It was within the discretion of the disciplinary authority as well as the appellate authority to accept the contents of the certificates. The appellate authority has categorically stated that the recitals in the medical certificates are unbelievable. No rule has been produced before us to show that a certificate issued by a private hospital must be accepted. The respondents made it clear to the respondents that if he so desired, he

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could get himself medically examined by the Civil Surgeon. The applicant failed to avail of the offer.

7. No ground exists for interference by us. The OA is dismissed summarily.

B.N. Dhoundiyal
(B.N.DHOUNDIYAL)
MEMBER(A)

S.K. Dhaon
(S.K.DHAON)
VICE-CHAIRMAN(J)

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