

(2) (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No. 1039/1994

New Delhi this the 29th Day of July 1999

Hon'ble Mr. V. Ramakrishnan, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Kalu Ram
S/o Shri Charan Singh
Village & P.O. Bijrol,
Meerut. U.P.

Applicant.

(By Advocate: None)

Versus

1. Government of the National Capital Territory of Delhi, Through its Chief Secretary, Raj Niwas, Delhi.
2. The Commissioner of Police, Police Head Quarter, Indraprashtha Marg, New Delhi - 2.
3. Deputy Commissioner of Police, North West District, Morala, Delhi.

Respondents.

(By Advocate: Shri S.K. Gupta proxy
for Shri B.S. Gupta)

ORDER (Oral)

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

None for the applicant even on the second call.

Shri S.K. Gupta, proxy for Shri B.S. Gupta, learned counsel for the respondents. We have perused the record and heard learned counsel for the respondents.

2. The applicant is aggrieved by the penalty order passed by the respondents dated 17.8.92 dismissing him from service and the rejection of his appeal by the appellate authority by his order dated 24.5.1993.

3. The charge against the applicant, as seen from the disciplinary authority's order, was that while he was

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posted at Police Station Model Town, he had absented himself from duty as many as nine occasions, the details of which have been mentioned therein. The disciplinary authority has stated in his order that after perusing the findings of the Enquiry Officer and statement of PWs and other materials on records in the departmental proceedings he has held ~~that~~ against the applicant/that the defaulter is an incorrigible person and he has firm belief that he is not interested in Government job and must be having some other source of income. In the circumstances, he has held that he is not at all fit to be retained in Delhi Police and dismissed him from service with immediate effect. After passing this order, we note that in the very next line the disciplinary authority has stated as follows:

"The above mentioned period of absence is treated on leave without pay."

4. The applicant has alleged in the OA that the departmental proceedings have not been held in accordance with law and also that he had been absent from duty due to unavoidable family circumstances and as a result of which he could not perform his duties. He has also referred to some medical certificates. This contention has been rebutted by the learned counsel for the respondents who has submitted that the penalty orders have been correctly passed on the applicant after holding the departmental enquiry.

5. However, having regard to the judgments of the Supreme Court in the State of Punjab Vs. Bakashish Singh, JT 1998(7) SCC 142 and the Delhi High Court in Satpal Yadav Vs. Union of India and Ors. (1998 (71) DLT 68) which have been followed by this Tribunal in Ex. Const. Jasbir Singh, (OA 2592/93) decided on 12.7.99 and Ex. Constable Ranbir Singh, (OA 2420/93) decided on 12.7.99 and for the reasons given ^{in these cases} we allow this application.

As mentioned above, the impugned penalty order having

(b)

regularised
the applicant's absence as leave without pay, the penalty
orders are quashed and set aside. The respondents are
directed to reinstate the applicant within one month from
the date of receipt of a copy of this order. However,
we make it clear that the applicant shall not be entitled
to any back wages for the intervening period, that is,
from the date of dismissal to the date of reinstatement
but shall be entitled to have ^{the} other benefits, like
seniority, in accordance with the rules and instructions.
Parties to bear their own costs.

Lakshmi
(Mrs. Lakshmi Swaminathan)
Member (J)

VRamakrishnan
(V. Ramakrishnan)
Vice Chairman (A)

vtc.