

Central Administrative Tribunal, Principal Bench

O.A. No. 104 of 1994

New Delhi this the 9th day of August, 1999

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN(A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Tejbir Singh  
S/o Shri Chattar Singh,  
R/o Village & P.O. Machrauli  
District Panipat, Haryana.

...Applicant

By Advocate Shri Ajesh Luthra

Versus

1. Commissioner of Police Delhi,  
Delhi Police Headquarters,  
M.S.O. Building,  
I.P. Estate,  
New Delhi.
  2. Additional Commissioner of Police  
(Southern Range) New Delhi,  
Delhi Police Headquarters,  
M.S.O. Building,  
I.P. Estate,  
New Delhi.
  3. Additional Deputy Commissioner of Police,  
West District,  
Delhi Rajouri Garden,  
Delhi.
- ...Respondents

By Advocate: Shri Amresh Mathur

ORDER (ORAL)

Hon'ble Shri S.R. Adige, Vice Chairman(A)

1. Heard both sides.
2. Learned counsel on either side agree that the impugned disciplinary order dated 25.2.1992 (Annexure A-3) as well as the appellate order dated 2.9.1992 (Annexure A-4) cannot be sustained in law and require to be quashed set aside in the light of the Hon'ble Supreme Court's judgement dated 8.8.1998 in State of Punjab & Ors. vs. Bakshish Singh (JT 1998 (7) SC 142), for the reason that




respondents having regularised applicant's period of absence from duty by converting it into leave without pay, the charge of absence from duty does not survive.

3. It has also been brought to our notice that the Delhi High Court in S.P.Yadav vs Union of India & Anr. (71 (1998) Delhi Law Times 68) have also held that once the absence from duty has been regularised, the charge of unauthorised absence does not survive.

4. Both sides also agree that the previous punishments inflicted upon the applicant were only an add-on factor and as he could not be punished for his absence from picket duty from 1.3.1990 to 25.4.1991, the same having been condoned by grant of leave without pay, the other punishments would not be relevant in the particular facts and circumstances of the case.

5. In the result the O.A. succeeds and is allowed. Respondents are directed to re-instate the applicant within one month from the date of receipt of a copy of this order. The period from the date of dismissal till the date of his re-instatement, together with such consequential benefits as will accrue to the applicant upon his re-instatement shall be determined by respondents in accordance with rules, instructions and judicial pronouncements on the subject. No costs.

  
(KULDIP SINGH)  
MEMBER (J)

/naresh/

  
(S.R. ADIGE)  
VICE CHAIRMAN (A)