

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1536/94

New Delhi this the 16th day of July, 1999.

Hon'ble Mr. A.V. Haridasan, Vice-Chairman(J)
Hon'ble Mr. S.P. Biswas, Member(A)

Sh. Dharam Pal,
S/o Sh. Rajinder Singh,
Vill. Jhari,
Post Office Thuru Uidepur,
District Sonapat,
Haryana.

..... Applicant

(through Mrs. Sumedha Sharma, advocate)

versus

1. Lt. Governor of Delhi,
Raj Niwas Marg,
National Capital Territory of Delhi,
through Commissioner of Police,
Police Head Quarters,
I.P. Estate,
ITO, New Delhi.

2. Addl. Dy. Commissioner of Police,
Traffic, PHQ, I.P. Estate,
ITO, New Delhi.

3. Addl. Commissioner of Police,
Security and Traffic, PHQ,
I.P. Estate,
ITO, New Delhi.

..... Respondents

(through Sh. Bhasker Bhardwaj for Sh. Arun Bhardwaj)

ORDER(ORAL)

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)

The issue involved in this case is whether after regularising the period of absence by granting leave of any kind is it permissible to impose penalty of dismissal from service for unauthorised absence. The applicant was by order dated 1.9.93 (Annexure-B) of the second respondent dismissed from service as a

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penalty for misconduct of unauthorised absence from 22.7.91 onwards after holding a preliminary enquiry. The penultimate paragraph of the impugned order reads as under:-

"Under the circumstances, I am left with no option than to confirm the punishment proposed in the show cause notice. Const. Dharam Pal, No.295/T is, therefore, dismissed from the force with immediate effect. His period of absence from 22.7.91 to the date of issue of this order is treated as leave without pay."

2. It is evident from the above extract that though a penalty of dismissal from service was imposed upon the applicant, simultaneously the second respondent has regularised the absence of the applicant from 22.7.91 till date which was alleged to be unauthorised absence by grant of leave without pay. The applicant has contended in the application that once the absence has been regularised by grant of leave, a penalty of unauthorised absence cannot be imposed.

3. We have heard the learned counsel for both the parties.


4. The learned counsel for the applicant cited the decision of the Apex Court in State of Punjab Vs. Bakshish Singh reported in JT 1998(7) SC 142 and the decision of the Central Administrative Tribunal/Principal Bench in Ram Piara Singh Vs. Union


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of India & Ors. (OA-2223/95) decided on 13.1.99 wherein it was held that once the absence is regularised by grant of leave of any kind, the Disciplinary Authority has no power to impose penalty.

5. In view of the above, we allow the application, set aside the impugned order (Annexure-B) as well as the Appellate Order dated 17.2.94 and direct the respondents to reinstate the applicant in service with the continuity of service with all consequential benefits including back wages. This exercise should be completed within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(S.P. Biswas)
Member(A)


(A.V. Haridasan)
Vice-Chairman(J)