

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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

OA.No.1581 of 1994

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN(J)
HON'BLE SHRI S.P. BISWAS, MEMBER(A)

Babu Ram

(EX-Constable No.371-P)
S/o Shri Chetru Singh
R/o Village & P.O. Rataul
P.S. Khakra
Distt. Meerut

(U.P.)

... Applicant

By Advocate: None present

versus

1. Lt. Governor
Delhi State
Raj Niwas
DELHI.

2. The Commissioner of Police
Police Headquarters
Delhi State
Indraprastha Estate
NEW DELHI.

... Respondents

By Advocate: Shri S.K. Gupta, proxy for
Shri Vijay Pandita.

O R D E R (Oral)

Hon'ble Shri A.V. Haridasan, VC(J)

The applicant Babu Ram, a Constable of the Delhi Police, was dismissed from service as a penalty for misconduct of unauthorised absence with effect from 27.9.90 to 1.12.91. Towards the end of the impugned order it is stated as follows:-

"I, therefore, impose a penalty of dismissal from service on Constable Babu Ram, No. 371/P with immediate effect and the period of his unauthorised absence from duty w.e.f. 27.9.90 to 1.12.91 is decided as L.W.P."

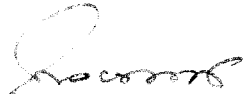
2. The applicant's appeal against the impugned order was rejected on 12.4.93 by the appellate authority's order (Annexure A-5). These orders are challenged on various grounds in this application.


3. The issue involved in this case is settled by a number of rulings of this Tribunal following the decision of the Apex Court in State of Punjab Vs Bakshish Singh JT 1998 (7) Sc 142. In OA.2223/95 decided on 13.1.99 to which one of us (A.V. Haridasan, Vice Chairman) was a party, followed the judgment of the Apex Court in Bakshish Singh's case and held that once the period of unauthorised absence is regularised by grant of leave of any kind, no penalty can be imposed for the same unauthorised absence.

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In this case as the period of unauthorised leave has been, by the impugned order itself, regularised as leave without pay, we find that the impugned order is not sustainable in the light of the rulings cited above. In the result, the application is allowed. The impugned order is set aside and the respondents are directed to reinstate the applicant in service forthwith with all consequential benefits including back wages. These directions shall be complied with within 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)

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