

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

..

OA.No.1668 of 1994

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

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

Vijay Kumar  
Son of Shri Pyare Lal  
House No.584 Village & P.O. Gangaur  
District Sonapat  
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  
(A.P. & T) Delhi  
Delhi Police Headquarters  
M.S.O. Building  
I.P. Estate  
New Delhi.

3. Deputy Commissioner of Police  
2nd Bn. D.A.P. N.P.L.  
Kingsway Camp  
Delhi.

... Respondents

By Advocate: Shri Rajinder Pandita

Contd...2

O R D E R (Oral)

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

The applicant Vijay Kumar, an Ex-Constable of Delhi Police, was removed from service by order dated 28.4.93 by 3rd respondent as a penalty for unauthorised absence for four spells. Finding the applicant guilty of misconduct, the disciplinary authority has stated in the impugned order dated 28.4.93 as follows.:-

"keeping in view his young age, I remove him from the police service with immediate effect. The period of his absence on different four occasions, as mentioned in the foregoing paras, is treated as 'leave without pay'. "

2. It is evident that the period of unauthorised absence for which the applicant was dealt with departmentally has been, in the impugned order, regularised as leave without pay, yet the applicant was dismissed from service. The applicant has challenged this order as also the appellate order rejecting his appeal.

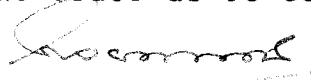
3. We have heard Shri Ajesh Luthra, learned counsel of the applicant and Shri Rajinder Pandita, learned counsel of respondents and perused the records.

4. The sole question which arises for consideration is after regularising the period of unauthorised absence for which the applicant was proceeded departmentally, <sup>by granting leave</sup> is it open to the disciplinary authority to impose penalty for the same unauthorised absence. This question has been 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. Recently Delhi High Court in Satya Pal Yadav Vs UOI & Ors. 71(1998) Delhi Law Times 68, has also taken the same view. This Tribunal also in OA.2223/95 decided on 13.1.99 has held that once the period of unauthorised absence for which the person is departmentally proceeded with, is regularised by granting any kind of leave, no penalty can be imposed for that unauthorised absence.

5. In the light of what has been stated above, the application is allowed. The impugned orders are set aside. The respondents are directed to reinstate the applicant in service forthwith with all consequential benefits including back wages.

The above directions shall be complied with 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)