

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA.No.1748 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)

Suraj Mal
S/o Shri Jeewan Singh
R/o Sarwan Park
Mungaka, Nangloi
DELHI.

... Applicant

By Advocate: None present.

versus

1. The Commissioner of Police
Police H.Q., I.P. Estate
NEW DELHI.
2. Addl. Commissioner of Police
P.S. H.Q. I.P.Estate
NEW DELHI.
3. The Deputy Commissioner of Police
East Dist. Shalimar Park
(D.C.P. Office-East Delhi)
Shalimar Park, Vishwas Nagar
Shahdara
DELHI.
4. The Administrator/Lt. Governor
Raj Niwas
N.C.T. of Delhi, Rajpur Road
DELHI.
5. N.C.T. of Delhi
through its Chief Secretary
Sham Nath Marg
DELHI.
6. S.H.O. Shri Daulat Ram Virdhi
Inspector Delhi Police)
P.S. Preet Vihar
DELHI. (as then he was).
7. S.H.O. Shri V.K. Gupta
(Inspector Delhi Police)
P.S. Trilokpuri
DELHI (Enquiry Officer).

Respondents 6&7 to be served through
Commissioner of Police, P.H.Q., I.P.Estate,
New Delhi. ... Respondents

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

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O R D E R (ORAL)

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

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Applicant Suraj Mal, Ex-H.C. Driver of Delhi Police, was removed from service by order dated 13.3.93 (Annexure-D) by 3rd respondent as a penalty for unauthorised absence, finding the applicant guilty of misconduct. The disciplinary authority has stated in the impugned order dated 13.3.93 as follows:-

"Accordingly, H.C.(Driver) Suraj Mal No.210/E is hereby dismissed from the force with immediate effect and his absence period mentioned above is treated as 'leave without pay.'"

It is evident that the period of unauthorised absence for which the applicant was dealt with departmentally has been, by 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.

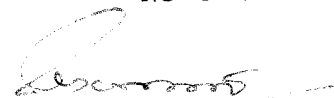
The sole question which arises for consideration is having regularised the period of unauthorised absence for which the applicant was proceeded departmentally, is it permissible to the disciplinary authority to impose penalty for the same unauthorised absence. The question has been settled by a number 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

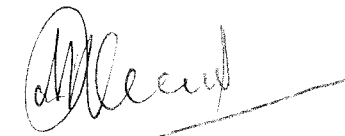
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OA.2223/95 decided on 13.1.99 has held that once the period of unauthorised absence for which the person is departmentally proceeded with, is regularised by granting any kind of leave, no penalty can be imposed for that unauthorised absence.

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 latest 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)

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