

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1167/2000

New Delhi this the 12th day of July, 2000

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

Ex. Constable (Driver) Naresh Kumar No.195/RB
(PIS No. 28882684)
S/o Shri Hari Kishan,
House No. 1766, Sohan Ganj,
Malka Ganj, Subji Mandi,
Delhi-110 006.

..Applicant
(By Advocate: Shri Bhawani Shankar Sharma)

Versus

1. Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
2. Joint Commissioner of Police,
Rashtrapati Bhawan,
New Delhi.
3. Deputy Commissioner of Police,
Rashtrapati Bhawan, New Delhi.

..Respondents

ORDER (Oral)

By Justice Ashok Agarwal, Chairman

Dismissal from service for unauthorised absence from duty imposed upon the applicant by the Disciplinary Authority on 9.7.98 as also the order of the Appellate Authority passed on 12.3.99 in appeal filed by the applicant dismissing the appeal and maintaining the aforesaid order of penalty are impugned in the present OA.

2. We have heard Shri Bhawani Shankar Sharma who has appeared in support of the OA.

3. As far as the disciplinary proceedings are concerned, as is found by the Disciplinary Authority that the applicant had made himself scarce and could not be served despite repeated unauthorized ~~absent~~ attempts to serve him. Hence proceedings were conducted ex-parte behind his back. Having regard to the number of attempts made to give him an opportunity to defend himself, ~~but~~ ^{which} he did not avail ~~appear~~, No valid grievance can be made in regard to the ex-parte proceedings which have been conducted against him. Applicant apart from having been found unauthorized ~~absent~~ on seven occasions has also been found guilty of previous absence revealing that he is a habitual absentee. Aforesaid earlier absence has been made on the basis of the specific charge to be found in the summary of allegations. Hence no grievance can be entertained in regard to the previous absence ^{for} arrived at the finding that applicant is a habitual absentee.

4. As far as the nature of penalty is concerned, the Disciplinary Authority has pointed out that the applicant clearly shows that despite major and minor penalties imposed upon him on earlier occasions, the same had no effect on him and he continued to have a habit of wilful absence from duty. It has further been pointed out that the Security Unit of Rashtripati Bhawan where applicant had been posted is a very sensitive unit. Hence absence from duty from such a sensitive post shows that he is negligent towards his duty. Hence to award any other penalty except dismissal would make mockery of the system as a whole and would establish a very bad precedent in maintaining the discipline

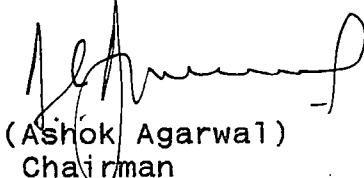
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of the force. In our view, aforesaid reasons are just and proper for imposing extreme penalty of dismissal from service. Similarly, as far as the order passed by the Appellate Authority is concerned, the same has taken into account the contentions raised by the applicant which are found to be without substance. Dismissal of the appeal in the circumstances is fully justified. The Disciplinary Authority has treated the absence of the applicant as dies-non. In the circumstances, no reliance can be placed on the case of State of Punjab Vs. Bakhshish Singh JT 1998 (7) SC 142 as his period of absence cannot be said to have been regularised.

5. Having regard to the material on record, present OA in the circumstances is summarily rejected.



(V.K. Majotra)
Member (A)



(Ashok Agarwal)
Chairman

CC.