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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.1348 of 2000

New Delhi, this 8th day of December 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. M.P. SINGH, MEMBER(A)

Mahinder Singh  
S/o Shri Ram Singh  
R/o Village Deghot  
Tehsil Palwal  
Dist. Faridabad, Haryana ... Applicant

(By Advocate: Shri N. Safaya)

versus

1. Commissioner of Police  
PHQ, IP Estate  
New Delhi
2. Additional Commissioner of Police  
(Traffic), PHQ, IP Estate  
New Delhi
3. Deputy Commissioner of Police  
(Traffic), PHQ, IP Estate  
New Delhi. ... Respondents

(By Advocate: Shri Ram Kanwar)

ORDER(Oral)

Mr Justice Ashok Agarwal:

By the present OA, applicant seeks to impugn an order passed against him in disciplinary proceedings conducted against him imposing a penalty of dismissal from service. Aforesaid order passed by the disciplinary authority on 29.8.1998 was carried by the applicant in appeal and the appellate authority by an order passed on 5.4.1999 at Annexure A-1 has affirmed the finding of guilt in regard to unauthorised absence of the applicant and has proceeded to affirm the penalty of dismissal from

N.E.P.

service. Aforesaid orders ~~are~~ impugned by the applicant in the present OA.

2. Appellate authority, in the concluding paragraph of his order dated 5.4.1999, has observed as under:

"Heard the appellant in O.R. After going through his case file and the D.E. file and the D.E. papers I find that the charge has been fully proved. The appellant has given reasons about his illness for not securing proper permission to avail medical rest but if these reasons are considered they in themselves show him as unfit for observing the rules and discipline of police service. As such I find no grounds for interfering with the orders of the disciplinary authority. The appeal is rejected."

3. Aforesaid observations make it clear that the appellate authority has been impressed and has also proceeded to accept the reasons given by the applicant for remaining absent, the reason being illness of the applicant and for not securing permission to avail of medical rest. But the very same reasons have been considered by the appellate authority to hold that he is unfit for observing rules and discipline of police force. For the said reasons, appellate authority has proceeded to affirm the order of dismissal from service.


4. By an order passed on 24.7.2000, we had directed notices to be issued to the respondents in order to enable them to consider whether the a penalty other than the one imposed on the

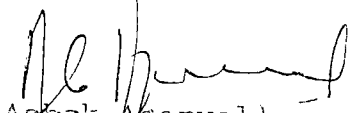
applicant, say of compulsory retirement can be considered for being imposed on him.

5. We have heard the learned counsel appearing for the contending parties and we find that this is not a fit case where an extreme penalty of dismissal from service is called for. This is particularly in view of the aforesaid finding recorded by the appellate authority. While accepting the case of the applicant that he was prevented due to illness from attending his duties, it was irrational to use the very same ground of illness for imposing extreme penalty of dismissal from service.

6. In the circumstances, without interfering with the finding of guilt arrived at against the applicant, we proceed to quash the order of penalty of dismissal from service and remit the matter back to the appellate authority to consider imposition of any penalty other than the penalty of dismissal or removal from service.

7. Present OA is partly allowed in the aforesaid terms with no order as to costs.

  
(M.P. Singh)  
Member(A)

  
(Ashok Agarwal)  
Member(J)

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