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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1627/2000

New Delhi, this 16th day of May, 2001

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P.Singh, Member(A)

Ex.Constable Naresh Pal No.1250/Comm.
1449/28, Durga Puri
Shahdara, Delhi

.. Applicant

(By Shri Sachin Chauhan, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Addl. Commissioner of Police
PCR & Communication
Police Hqrs. New Delhi
3. Addl. Dy. Commissioner of Police
5, Rajpura Road, Delhi

.. Respondents

(By Shri R.M.Singh, proxy for Shri A.K.Chopra,
Advocate)


ORDER(oral)

By Shri M.P. Singh

The applicant is before us challenging the order dated 23.3.99 by which he has been dismissed from service and the order dated 27.7.99 by which his appeal against the punishment has been rejected. He is seeking directions to the respondents to quash and set aside these orders and reinstate him in service with all consequential benefits.

2. We have heard the learned counsel for the parties and perused the records.

3. The admitted facts of the case are that the applicant was on medical rest w.e.f. 6.3.98 and was due back on 21.3.98. He kept on extending the leave through



telephone message. When he did not resume duty after extensions of leave, he was issued absentee notice on 1.5.98 directing him to resume his duty at once failing which disciplinary action would be taken against him. It was followed by another absentee notice on 20.5.98 but the applicant neither resumed duty nor sent any intimation to the department and remained absent continuously. Ultimately he resumed duty only on 29.7.98 but he also did not submit any medical papers even at that time. Besides this, during his absence period, FIR No.413/98 dated 24.6.98 u/s 307/34 IPC was registered against him and he was arrested by the local police on 24.6.98. He remained in police remand upto 26.6.98 and was sent to judicial custody by the court on 27.6.98 and released on bail on 29.6.98. He was placed under suspension vide order dated 24.6.98. Departmental enquiry was initiated against him, as a result of which he was dismissed from service by order dated 23.3.99. His appeal was considered and rejected by order dated 27.7.99.

4. From a perusal of the material available before us, we find that the applicant was earlier awarded punishment of reduction in his pay by one increment for a period of one year vide order dated 17.11.97. Again, on his having been arrested u/s 92,93,97, Delhi Police Act, vide order dated 30.12.89, the applicant was placed under suspension and he was awarded punishment of forfeiture of two years approved service and reduction in pay by two stages for a period of two years vide order dated 7.7.92. However his appeal against this was accepted and the punishment was set aside by the respondents.



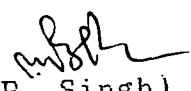
5. We further find that the applicant did not submit the medical papers when he resumed duty on 29.7.98 but had chosen to submit photocopies of medical papers issued from Hindu Rao Hospital and private Hospital at the time of submission of his defence statement on 30.11.98, only to cover his absence period. The applicant was served with the summary of allegation, list of FWs and list of documents alongwith copies of relied upon documents concerned with the DE proceedings to defend himself. The DE was conducted as per rules and procedures on the subject, the disciplinary authority found him an incorrigible type of person not fit to be detained in a disciplined force like Delhi Police and awarded the punishment of dismissal from service taking into account the gravity of misconduct. The appellate authority heard the applicant in OR on 23.7.99 and considered his appeal which was rightly rejected. Thus we do not find any infirmity either in the procedures adopted or with the impugned orders passed by the respondents.


6. During the course of the arguments, the learned counsel for the applicant has submitted that the punishment awarded is too harsh. As per the legal position, the court/Tribunal is not to interfere with the quantum of punishment unless the same shocks its conscious. Considering the gravity of misconduct, the respondents found the applicant an incorrigible person unfit to be retained in Police Force and awarded the punishment of dismissal. Therefore, we do not find that the punishment shocks our conscious which should be



interfered with. We are fortified in this regard with the judgement of the apex court in the case of B.C.Chaturvedi Vs. UOI JT 1995(8) SC 65.

7. In the result, we do not find any merit in the present OA and the same deserves to be dismissed. We do so accordingly. No costs.


(M.P. Singh)
Member(A)


(Kuldeep Singh)
Member(J)

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