

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2177/2000

Wednesday, this the 1st day of August, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

Kanchhid Singh, s/o Sh. Bharam Singh  
R/O Village Detai, Distt. Ghaziabad (UP)

....Applicant

(By Advocate: Shri A.K.Trivedi for Shri Yogesh Sharma)

Versus

1. NCT of Delhi through the Chief Secretary  
Old Secretariat, Delhi
2. The Commissioner of Police  
Police Head Quarter, I.P.Estate,  
New Delhi.
3. The Addl. Commissioner of Police  
Police Head Quarters, I.P. Estate,  
New Delhi.
4. The Deputy Commissioner of Police  
2nd Bn.DAP Delhi, Kingsway Camp  
Delhi

...Respondents

(By Advocate: Shri A.K.Singh for Shri A.K.Chopra)

O R D E R (ORAL)

By Hon'ble Shri Ashok Agarwal:

Disciplinary proceedings have been initiated against the applicant on the charge of unauthorized absence from duty. Disciplinary Authority by an order passed on 26.11.1990 at Annexure A-3 has proceeded to impose a penalty of dismissal from service. Disciplinary authority has thereafter treated the period of unauthorized absence as leave without pay as also the period of suspension as not spent on duty. Aforesaid orders of disciplinary authority have been maintained by the appellate authority by his order of 22.2.1994 at Annexure A-2 and by the revisional authority by his order of 31.7.2000 at Annexure A-1. Aforesaid orders are impugned by the applicant in the present OA.

14.0

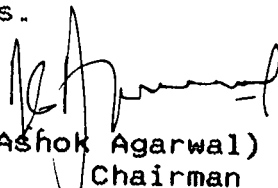
2. The only contention which has been raised before us for impugning the aforesaid orders is based on a decision in the case of State of Punjab & Ors. Vs. Bakshish Singh, reported as (1998) 8 SCC 222 which has taken a view that once the period of absence has been treated as leave without pay ~~and~~ aforesaid absence has been regularised, the same can no longer be treated as unauthorized absence.

3. In our view, aforesaid contention will no longer hold the field in view of an earlier decision of the Larger Bench of the Supreme Court in the case of State of M.P. Vs. Harihar Gopal, reported as 1969 SLR 274, which was noticed by the Delhi High Court in the case of Deputy Commissioner of Police Vs. Ex. Constable Karan Singh & Anr. (CWP-4883/99), decided on 18.4.2000. Based on the aforesaid decision, the Delhi High Court has preferred to follow the decision of the Larger Bench in the aforesaid case of Harihar Gopal which decision has thereafter been followed consistently by the Tribunal.

4. In the circumstances, we have no option but to follow the aforesaid decision in the case of Harihar Gopal and hold that the aforesaid period of absence cannot be held as having been regularized merely on the ground of the same having been treated as leave without pay. Aforesaid contention, which is the only contention raised, we, in the circumstances, find is devoid of merit and the same is accordingly rejected.

5. For the foregoing reasons, present OA is dismissed, however, with no order as to costs.

  
(S.A.T. Rizvi)  
Member (A)

  
(Ashok Agarwal)  
Chairman

/sunil/