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Central Administrative Tribunal
Principal Bench: New Delhi

OA-353/2000

New Delhi this the 10th day of April 2000

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

Hukam Chand Yadav (866/Commn.)
Ex. Head Constable
S/o Shri Sukhbir Singh
R/o V&PO Khekra, PS Khekra
Distt. Meerut, U.P.

...Applicant

(By Advocate:None)

Versus

1. Govt. of NCT Delhi through its
Chief Secretary,
5, Sham Nath Marg, Delhi.
2. Addl. Commissioner of Police
(PCR/Communication)
Police Headquarter, IP Estate
New Delhi.
3. Dy. Commissioner of Police
(Communication)
Old Police Lines,
Delhi.

..Respondents

(SI Mohan Ram, departmental
representative)

ORDER (Oral)

By Mr. Justice Ashok Agarwal, Chairman

An order of dismissal from service passed against the applicant in disciplinary proceedings conducted against him is impugned in the present OA. Misconduct alleged against the applicant consisted of two broad charges namely; he is being involved in a criminal offence under Section 307 and 506 of the Indian Penal Code and the other for unlawful absence from duty.

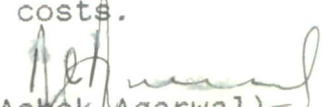
2. We have noticed that in respect of the first charge of being involved in the aforesaid offence a Criminal Court by a judgment and order passed on

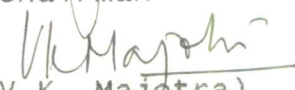
14.8.92 has held him not guilty. The Criminal Court has found that the prosecution witnesses have failed to involve the applicant and have turned hostile.

3. We have perused the orders passed by the Disciplinary Authority dated 12.3.98 and one passed by the Appellate Authority on 27.7.99 and we find that both aforesaid authorities have not taken into account the aforesaid order of acquittal passed in favour of the applicant. The order impugned is dismissal from service. Whether the same is commensurate with the misconduct of unauthorised absence does not appear to have been considered by the aforesaid authorities.

4. In the circumstances the matter is remitted back to the disciplinary authority to reconsider the penalty imposed and pass a speaking order giving reasons as to whether he would impose the aforesaid penalty of dismissal from service or some other penalty in view of the finding of unauthorised absence ^{found} against the applicant. The applicant, it goes without saying, will be once again entitled to approach this Tribunal in case he is not satisfied with the orders passed by the disciplinary authority and appellate authority.

5. Present OA is accordingly allowed in the aforesaid terms. No order as to costs.


(Ashok Agarwal) -
Chairman


(V.K. Majotra)
Member (A)

cc.