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Central Administrative Tribunal, Principal Bench

Original Application No.665 of 2000

New Delhi, this the 30th day of January, 2001

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

Bijender Singh
Ex-Constable No.409/DAP
(PIS No.28900537)
R/o Vill: Roop bas, P.O.:C.V.Form,
P.S.:Sadar, Distt.:Alwar
Rajasthan

- Applicant

(By Advocate - Shri Anil Singal)

Versus

1. Govt. of NCT of Delhi
through Commissioner of Police
Police Head Quarter
I.P. Estate, New Delhi
2. Addl. Commissioner of Police
Armed Police Delhi
Kingsway Camp, Delhi-9
3. Addl.D.C.P.
1st Bn., DAP, Delhi
Kingsway Camp, Delhi-9

- Respondents

(By Advocate - Shri Ram Kwar)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member(J)

The applicant in this O.A. has challenged the impugned order whereby he has been dismissed from service for unauthorised absence for the period 23.12.98 to 23.2.99. The allegations against the applicant are that he had proceeded on 15 days paternity leave vide DD No.42-A dated 17.12.98 and was supposed to join on 22.12.98. But he did not resume duty on 22.12.98 and his absence was marked vide DD No.40-A dated 24.12.98. However, in the meantime, information regarding illness of the applicant was received by the department. The applicant resumed duty on 23.2.99 vide DD No.69-B dated 23.2.99, after

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absenting himself from duty for a period of 62 days, 20 hours and 45 minutes. Thus the department initiated an enquiry against the applicant on the allegation of unauthorised absence from duty for a period of 62 days, 20 hours and 45 minutes. The Enquiry Officer recorded its findings holding the applicant guilty whereupon, the disciplinary authority passed the impugned order (Annexure A-5) dismissing the applicant from service. Appeal against the order of disciplinary authority was also dismissed vide Annexure A-6.

2. To challenge the impugned order, the applicant has alleged that he had proceeded on paternity leave which was duly sanctioned by the competent authority and because he could not join the duty on the due date i.e. 22.12.98 due to illness, he had sent a telegram to the respondents informing them about his illness. Applicant has stated that so long he remained on medical leave, the respondents neither issued any memo nor any show cause notice nor the applicant was called upon to resume duty. However, after he resumed duty, the impugned departmental proceedings were initiated against him. The applicant has also submitted that his Company Commander had also recommended leave for the absence period but this fact was not taken into consideration by the Enquiry Officer and the Disciplinary Authority and he was held to be guilty of unauthorised absence.



3. Learned counsel for the applicant submitted that applicant had informed the respondents about his illness by a telegram and inspite of the fact that Company Commander had recommended leave for him, the respondents initiated action to hold an enquiry against him without applying their mind and, therefore, the basis on which the impugned order has been issued itself cannot stand and deserves to be quashed.

4. We heard learned counsel for the parties and gone through the records.


5. During the course of arguments, we have put up a specific query to the learned counsel for respondents that when the Company Commander had himself recommended leave to the applicant, then what was the reason to initiate disciplinary enquiry against the applicant. Learned counsel for respondents could not give satisfactory reply to our query. Rather perusal of the impugned order itself shows that information was sent by the applicant on the day when he was supposed to join, seeking further leave by sending a telegram and immediately on resumption of duties, he had submitted medical certificates also.

6. Thus it is clear that foundation of the enquiry itself is bad and we may further hold that the enquiry officer has not applied its mind properly and he has not considered even the recommendations of the Company Commander under whom the applicant was



working. Under these circumstances, we are of the opinion that enquiry was held against the principles of natural justice.

7. We, therefore, quash the impugned orders and allow the O.A. The respondents are directed to reinstate the applicant within a period of two months with all consequential benefits, from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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