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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

D.A. No.133/89.

Ninth day of February, 1994.

SHRI J.P. SHARMA, MEMBER (J).

SHRI B.K. SINGH, MEMBER (A).

Balwant Singh,
Ex. Constable No.4173/DAP,
son of Shri Dhanpat Singh,
r/o: Village & P.O. Puthi Saman,
District Hissar (Haryana)

...Applicant

(By advocate : Shri A.S.Grewal)

Versus

1. Lt. Governor of Delhi, through
Chief Secretary, Delhi Administration,
Delhi.
 2. Commissioner of Police Delhi,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi.
 3. Additional Commissioner of Police,
(Armed Police), Delhi Police Headquarters,
M.S.O. Building, I.P. Estate, New Delhi.
 4. Deputy Commissioner of Police, 5th Bn.
D.A.P. New Police Lines, Kingsway Camp,
Delhi.
- ...Respondents

(By advocate ~~sh~~ P.K. Bahl)

O R D E R (ORAL)

SHRI J.P.SHARMA :

The applicant while serving in Delhi Police as Constable, was served with a summery of allegationsto the effect that he unauthorisedly absented himself from duty on 1.6.87 at the residence of the Education Minister while he was posted in 5th Bn. DAP working as

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8.5.0. He reported back after 42 days 17 hours and 20 minutes on 14.7.87. The other allegation has been that the applicant was detained at I.S.B.T. Platform No.14/15 for creating some nuisance under Section 65 of Delhi Police Act, 1978. A departmental enquiry was held. Shri Jagjit Singh, Inspector, 5th Bn., DAP, was E.O. Delhi, who framed the charges against the applicant. The applicant was allowed to ^{was} ^{prosecution} examine the ^{was} witnesses. The I.O. gave his findings against the applicant and held that both the charges against the applicant, have been proved on the basis of the evidence produced by the witnesses on behalf of the administration. The applicant ^{in defence} desired to produce 4 witnesses but subsequently he gave up and did not examine any witness in defence. The Deputy Commissioner(Police), on the basis of the findings of the I.O. vide order dated 21st January, 1988, passed an order of punishment of dismissal from service which was upheld by the Additioner Commissioner of Police, by the order passed on the appeal of the applicant on 22.4.88. The Appellate order was also upheld by the Commissioner of Police vide order dated 18.7.88. Thereafter, the applicant has filed this application, aggrieved by the above orders of the respondents.

2. The reliefs prayed for by the applicant are:

- (i) That the impugned orders of the DC.P. 5th Bn. D.A.P. dated 21.1.1988 dismissing the applicant

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from service be quashed and the applicant be deemed to be in service with full benefits.

- (ii) That the order of the Appellate Authority (Annexure 'F') and that of Revisionary Authority (Annexure 'G') rejecting the appeal and revision be also quashed.
- (iii) Any other relief which this Tribunal may deem fit and proper in the circumstances of the case.

3. The respondents in their reply contested the application and opposed the grant of relief prayed for by the applicant on the ground that the applicant has misconducted himself on 1.6.87 by absenting himself from duty at the residence of the Minister of State for Education and he reported after nearly 42 days. In between, on 1.7.87, he was detained at I.S.B.T. for creating public nuisance under Section 65 of Delhi Police Act, 1987. The respondents have also averred that the applicant have been awarded ^a number of P.Ds and 7 censures. besides (a) forfeiture of 4 years service in 1978 (b) forfeiture of 5 years service in 1986 and (c) withholding of 10 future annual increments in 1987. Earlier also he was removed from service in 1985 but subsequently he was given another opportunity and the order of removal from service was set aside and punishment was reduced to forfeiture of 5 years approved service.

4. The applicant has also filed rejoinder reiterating the facts already offered in the O.A.

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5. We have heard the learned counsels for the parties at length. The learned counsel for the applicant highlighted the provision of Rule 16(XII)(G) of the Delhi Police(Punishment and Appeal)Rules,1980 which envisages that in case of previous conduct of a delinquent ^{taken} is into account a formal charge in that respect should be prepared and the applicant be informed to meet the same. The learned counsel, therefore, read the orders of the Disciplinary authority wherein in the last para there is a mention of the ^{and} previous career/conduct of the applicant where it is observed that the applicant failed to improve himself and is of incorrigible type. A perusal of his ^{service} record shows that he is a habitual absentee and highly negligent in the performance of his assigned duties. Such lapses on the part of the applicant are against the norms of Police and cannot be overlooked for long. The learned counsel has also taken up to the orders passed by the Appellate Authority who also made certain observations on ^{of the applicant.} earlier misconduct. The Commissioner of Police also, while disposing of the revision, has touched the antecedents of the applicant before the alleged proved ~~as~~ misconduct against the delinquent.

6. The learned counsel for the applicant also relied on the authority ATJ Vol.14 1993(1)p.54 Rampal Vs. U.O.I. and others.

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7. It is a fact that the Disciplinary authority has considered certain antecedents of the applicant, but these are not in the context as argued by the learned counsel. The Disciplinary Authority has clearly observed on the last para of p.21 of the paper book that the charges against the applicant are duly established. While giving his opinion that the applicant has committed violation of S.O. No.111 and CCS(Leave)Rules,1972 for absenting unauthorisedly and observed certain facts which were not relevant to the enquiry or the findings of the I.O. will not by itself mean that the applicant's previous conduct has been especially considered by the Disciplinary Authority while making his mind about the misconduct committed by the applicant while awarding the impugned punishment. Similarly, a careful scrutiny of the orders of the Appellate Authority and Revisionary Authority shows that they have fully applied their mind to the case of the applicant.

8. We have also considered the case sympathetically as in the authority cited by the learned counsel for the applicant the case was remitted back to the administration for holding fresh enquiry if so advised. However, in the case of the applicant a undisputed fact remains that he has been awarded punishment by forfeiture of 4 years service in 1978, forfeiture of 5 years service

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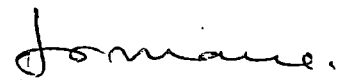
in 1986 and withholding of 10 future annual increments in 1987. Thus remanding the case again to the Disciplinary authority for applying their mind again, will not be fruitful as well as not in the interest of fair play and justice.

9. No other point has been pressed by the learned counsel for the applicant.

10. We heard the learned counsel for the respondents who have highlighted the points raised in the reply.

11. In view of the facts and circumstances of the case, the application is dismissed as devoid of merit. Cost on parties.


(B. K. Singh)
Member (A)


(J. P. Sharma)
Member (J)

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