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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1716/89.

New Delhi, this the fifth day of May, 1994.

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

SHRI S.R.ADIGE, MEMBER(A).

Om Pal Singh,
S/o Shri Birham Singh,
r/o Village & P.O. Lillon P.S. Shamli,
District Muzaffar Nagar, U.P.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, Ist Bn. D.A.P., New Police Lines, Delhi.Respondents

By advocate : Mrs. Avnish Ahlawat.

O R D E R (ORAL)

SHRI J.P. SHARMA :

The applicant was Constable Driver in Delhi Police. He has remained continuously absent at four intervals for a total period of 137 days. An oral inquiry under section 21 of the Delhi Police Act, 1978 read with Delhi Police (Punishment and Appeal) Rules, 1980 was drawn against him and he was served with a summary of allegations vide annexure A. Inspector R.C. Garg was inquiry officer and after conducting the evidence of the prosecution witness, a charge annexure-B

was framed against him on 21-7-87 which was got approved by the DPC. The inquiry officer found the applicant guilty of charge of unauthorised absence from duty and also that the excuse taken by him was not of remaining absent for grant of leave was not convincing. The disciplinary authority agreeing with the findings of the inquiry officer passed the order of removal from service on 25-2-88. This order has been upheld by the appellate authority as well as revisional authorities by the order dated 5-9-88 and 23-2-89, respectively.

2. The applicant asailed these orders of punishment in the OA filed on 28-8-1989 on which a notice was issued to the respondents who contested the application by filing a reply. It is stated that the applicant remained on unauthorised absent and that previous recruitment rules of service also goes to show that he was awarded P.D.s and warnings on seven different occasions for his wilful and unauthorised absence. The order passed by the disciplinary authority and another higher authorities are fair and just and the applicant has been given adequate opportunity of representing his case.

3. We heard the both the counsel for the parties and perused the records. The police force to which the applicant belongs in order to maintain its discipline has to take proper care regarding the various absentees by its employees. In normal course, the employee is entitled to grant of leave on account of certain happenings in his family or in his personal life but that cannot be taken for granted. CCS (Leave) Rules, 1972 are also applicable to the police personnel which have been followed. We have gone through the various averments made by the applicant and the reply furnished

by the respondents in the counter and find that the applicant within the short span of about six months has absented himself from duty without any sanctioned leave. It was expected from him to apply for the leave of any kind due and in case his case for grant of leave was not considered favourably, then that would have been another matter. In the present case, the applicant, after he first absented in April, 87 for 16 days, joined after a notice was issued to him and after joining in the month of May, 87, he again absented and again he was issued a show cause notice, then he joined in the month of June and again he absented on the next day. Then he joined on 14-8-87 and absented again on 17-8-87. It is not the period of absence which is material but the conduct of the applicant in playing ~~hide~~ and seek in the service coming and going without permission, knowing well that he belongs to police force. The inquiry officer has considered all these aspects and the applicant has nothing to say except that he was prevented ^{from} joining his duties on account of illness of his wife and at other occasions for some family circumstances. The inquiry officer has not placed reliance on this representation of the applicant and the Tribunal cannot re-appreciate the evidence produced before the inquiry officer. In view of this, we don't find that there is any irregularity or illegality committed by the disciplinary authority in passing the impugned order of removal from service. The appellate authority as well as revisional authority have also considered the matter and a perusal of the aforesaid order shows that there has been a proper application of mind.

4. We have also considered the quantum of punishment imposed upon the applicant. In normal course, the Tribunal is not to interfere with the punishment but when it is not commensurate with the misconduct, then necessary directions can be issued to the respondents to reconsider his punishment imposed. However, in this case, the conduct of the applicant does not warrant any interference by the Tribunal in the award of punishment also.

5. In view of the above, we don't find any merit in this application and the same is dismissed. No costs.

Adige
(S.R. ADIGE)

MEMBER (A)

Sharma
(J.P. SHARMA)
MEMBER (J)

'KALRA'