

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No.1948/89
T.A. No.

199

DATE OF DECISION 8-11-91

Shri Krishan..	Petitioner
Shri Ajit Singh Grewal	Advocate for the Petitioner(s)
Versus	
Lt. Governor & Ors.	Respondent
Shri T.S. Kapoor	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J).

The Hon'ble Mr. B.N. Dhoundiyal, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? */*
4. Whether it needs to be circulated to other Benches of the Tribunal? *NO*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. Dhoundiyal)

This DA has been filed by Shri Krishan, Constable, Delhi Police against the order of Additional D.C.P. No. 5051-5100/ASIP(SD) dated 3.3.88 terminating his services and the order issued by the Commissioner of Police Delhi vide ~~order~~ ^{Sn.} No.16005/ASIP-SD dated 12.7.88, rejecting his representation.

BN

8

2. The applicant was appointed as a Constable in Delhi Police on 29.9.82. He was due to be declared as quasi permanent w.e.f. 30.9.85 but was passed over for the period of six months. According to him, the respondents kept on ignoring his claim of quasi permanency by extending his probation period from time to time, last extension being given till 30.3.87. On 17.10.86, he proceeded on five days casual leave but suddenly fell ill and was compelled to over stay for about 79 days. He remained under the treatment of M.O.I./C of C.G.H.S. Dispensary, Darya Ganj, Delhi and submitted a medical certificate and fitness certificate on 8.1.87, when he resumed his duties. A Departmental Enquiry was conducted against him and he was awarded the punishment of forfeiture of one year's approved service permanently. His pay was reduced from Rs.990/- to 970/- p.m. On 11.5.87, he was transferred from the South District to West District but on 3.3.88, the impugned order of termination of his services was issued by the Additional D.C.P. South.

3. The respondents have stated that the applicant was due to be declared as quasi permanent w.e.f. 30.9.85, but was passed over due to his indifferent service record. They have cited numerous instances

Bm

9

of his absence ^{from} / duty. After his absence of 79 days, he admitted his fault and gave in writing that he does not want to proceed with Departmental Enquiry and pleaded for mercy. A lenient view was taken and he was let off with the punishment of forfeiture of one year's approved service permanently and the absentee period was treated as leave without pay. He was transferred to West District from South District but his case of quasi permanency was to be decided in the South District and the termination order was also issued from the South District. His services were terminated under Rule 5(1) of C.C.S. (Temporary Service) Rules, 1965, as he had ^{BN} not been given quasi permanent status till then and it was not necessary to conduct an inquiry.

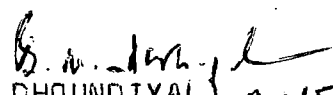
4. We have gone through the records of the case and heard the learned counsel for both parties. Under the relevant provisions of the Delhi Police Promotion and Confirmation Rules, 1980 and the Delhi Police Appointment and Recruitment Rules, 1980, all employees appointed to the Delhi Police shall be on probation for a period of two years. However, the competent authority may extend the period of probation, but in no case, shall the period of probation extend beyond three years in all. Thus the maximum period of probation can be three years. In case

BN

10

an employee is not confirmed after three years, by passing a specific order, he should be deemed to have been confirmed, as has been held by the Tribunal in OA.1510/87, Rajbir Singh Vs. Union of India, decided on 31.05.1991. Thus it has been stated clearly that the period of probation cannot extend beyond three years. In the present case, the applicant was appointed as Constable in Delhi Police on 29.9.82 and after 28.9.85 he shall be deemed to have been confirmed. This view has been taken in a number of judgements given by different Benches of this Tribunal. **

5. In the facts and circumstances of the case, we hold that the applicant cannot be treated as a temporary employee and the authority cannot terminate his services under the provision of Rule 5(C) of the Delhi Police (Appointment and Recruitment) Rules, 1980. Accordingly, the impugned order No.5051-5100/ASIP(SD) dated 3.3.88 is hereby set aside and quashed. The respondents are directed to reinstate the applicant forthwith within one month of receipt of this order. He would also be entitled to all the consequential benefits. In the circumstances, there will be no order as to cost.


(B.N. DHOUNDIYAL) 5/11/91
MEMBER(A)


(P.K. KARTHA)
VICE CHAIRMAN(J)

**

1. TA.740 of 1986, Om Pal Singh Vs. U.C.I. decided on 20.9.90.
2. OA.1143/85, decided on 4.5.89.
3. OA.1249/87, decided on 7.12.89.