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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2222/89

NEW DELHI THIS THE 7TH DAY OF JUNE 1994
MR. JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR. B.N.DHOUNDIYAL, MEMBER(A)

Shri Surender Pal

S/o Shri Daryao Singh

R/o 185/32-F, Krishna Gali No.7,

Maujpur, Shahdra, Delhi.

APPLICANT

BY: ADVOCATE SHRI A.S.GREWAL.

Vs.

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,
New Delhi Range, New Delhi, P.H.Q
M.S.O. Building, I.P. Estate
New Delhi.
4. D.C.P. West District, P.S. Rajouri Garden,
New Delhi.

... RESPONDENTS.

SHRI B.S.OBEROI, PROXY COUNSEL FOR
SHRI D.K.SHARMA, ADVOCATE.

ORDER(ORAL)

JUSTICE S.K.DHAON:

The applicant, a Constable in the Delhi Police, was subjected to disciplinary proceedings on the charge that he remained absent from duty unauthorisedly for 56 days 12 hours and 5 minutes. The usual procedure was followed in the sense that a summary of allegations was furnished; the department led its evidence; the charge was framed by the Inquiry Officer; the Inquiry Officer submitted his report to the disciplinary authority and the disciplinary authority considered the report and passed an order of punishment after furnishing to the applicant, a copy of the Inquiry Officer's report and after considering the explanation offered by the applicant thereto. The disciplinary authority punished the applicant by directing his forfeiture of 'five years' approved service. It was also directed that the applicant shall be deemed to be absent from duty during the period of suspension. In appeal, the appellate authority modified the punishment awarded to the applicant. It, however, agreed with the disciplinary

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authority that the charge of misconduct had been brought home to the applicant. It directed that one year's approved service of the applicant shall be forfeited permanently entailing proportionate reduction in his pay. The revision preferred by the applicant was dismissed by the revisional authority. The orders passed by the disciplinary authority, appellate authority and the revisional authority are being impugned in this OA.

2. Though the applicant was given a separate summary of allegations and though charges against him were framed separately, the Inquiry Officer conducted common proceedings against the applicant and others who too faced charge of misconduct on the ground of continued absence without any leave. The disciplinary authority considered the case of the applicant separately. The appeal preferred by the applicant was considered separately by the appellate authority and this practice was followed by the revisional authority also.

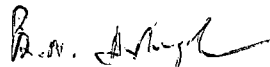
3. We have gone through the records and heard the learned counsel for both the parties.

4. The argument of the learned counsel for the applicant is that the disciplinary authority and other two authorities wrongly assumed that the applicant has absented himself for 56 days. In fact, his absence was for a shorter duration. Be that as it may, the fact remains that the applicant remained absent unauthorisedly and, therefore, he misconducted. The fact that the applicant has remained absent for 56 days or for a shorter duration will not entitle us to interfere with the orders passed by the authorities below. The appellate authority, as already indicated, had dealt with the applicant rather leniently by reducing the forfeiture of his service from 5 years to one year. No illegality is discernible in the impugned orders and no ground is made to interfere.

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5. The contention that, the departmental proceedings stood vitiated as the Inquiry Officer conducted common proceedings as against the applicant and others, has been advanced at the Bar without any pleadings to that effect. However, we have gone through the relevant rules and we do not find any rule forbidding the holding of a common inquiry. Unlike Rule 8 of the CCS(CC&A) Rules, there is no provision in the Delhi Police(Punishment & Appeal) Rules that a separate order for holding a common inquiry should be passed after due application of mind. That apart, Section 134 of the Delhi Police Act, 1978, inter-alia provides that no order made and no act done in any provision of the Act or rule or regulation made in the Act shall be deemed illegal, void, invalid or insufficient by reason of any defect or form or any irregularity. In the absence of any rule prohibiting a common inquiry at best, the applicant could urge that there was a procedural irregularity committed by the Inquiry Officer in holding the common inquiry. Such a defect is cured by Section 134 abovementioned. That apart, the applicant has not been able to show that any prejudice has been caused to him by following the aforesaid procedure.

6. This OA fails and is dismissed but without any order as to costs.


(B.N.DHOUNDIYAL)
MEMBER(A)


(S.K.DHAON)
VICE-CHAIRMAN(J)

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