

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O. A. NO. 2337/89

New Delhi this the 19th day of April, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

Shri Desh Singh,
Constable,
No. 1047/SD,
Village Katwaria Sarai,
New Delhi - 110016.

... Applicant

None for the Applicant

Versus

1. Delhi Administration
through its Chief Secretary,
Old Secretariat,
Rajpura Road,
Delhi.

2. Commissioner of Police,
Police Hqrs.,
I.P. Estate,
New Delhi-2.

... Respondents

By Advocate Shri O. N. Trisal

O R D E R (CRAI)

Hon'ble Mr. Justice V. S. Malimath -

A departmental inquiry was held against the petitioner alleging that he had committed misconduct by remaining unauthorisedly absent from duty as a Police Constable for three months 26 days 1 hour and 15 minutes as per DD No. 35/37 dated 10.7.1986, 21 hours as per DD dated 3.12.1986, 3 days 22 hours as per DD dated 13.1.1987 and being continuously absent vide DD dated 23.2.1987 till the date of the chargesheet dated 5.10.1988. An inquiry officer was duly appointed who held an inquiry. The petitioner did not participate in the inquiry. The inquiry was, therefore, held ex parte. The inquiry officer

N

(1)

recorded his findings to the effect that the charge levelled against the petitioner has been duly proved and further that he is a habitual offender having regard to his previous conduct of remaining absent from duty for long spells of time. The disciplinary authority accepted the findings of the inquiry officer and proceeded to pass the order dismissing the petitioner from service. The appeal against the same was also dismissed. Hence, this application.

2. The findings holding that the petitioner is guilty of unauthorised absence for the period specified in the chargesheet do not call for interference. A contention is raised that misconduct not alleged against the petitioner has been taken into account. We find no substance in this contention. There is a reference to the previous conduct of the petitioner being absent from duty on several occasions. There is a mention about it in the proceedings and there is no dispute that the petitioner was absent during those periods. The respondents have taken the stand that by way of indulgence those periods of absence were regularised and that in spite of kindness shown by the administration, the petitioner did not improve and he persisted in his conduct of remaining unauthorisedly absent. That the petitioner was required to be absent because of his ailment would not come to his aid because he did not seek any leave on grounds of illness for the period for which he has been charged. If there was truth in his case, ✓ he would have sent application for grant of leave

supported by medical certificate. That would have been the ^{proper} conduct of a Government servant in the normal circumstances. The petitioner being a Police Constable has a responsibility of ensuring that he does not remain absent as his absence would cause grave inconvenience for the administration whose responsibility is to maintain law and order which indeed is a very difficult task. There is no satisfactory explanation for the petitioner's absence during the disciplinary proceedings. The petitioner states that he had sent information in this regard which the respondents say they have not received. There is no satisfactory material to show that such a letter was sent by the petitioner and was received by the respondents. The petitioner having deliberately chosen to remain absent during the course of disciplinary inquiry, has lost the opportunity of placing material in support of his case by his own action. He cannot, therefore, complain in the circumstances of the disciplinary inquiry being held ex parte. We see no infirmity in the disciplinary inquiry either.

3. Hence, there is no good ground to interfere in this case. This application fails and is dismissed. No costs.

P. T. Thiruengadam

(P. T. Thiruengadam)
Member (A)

V. S. Malimath

(V. S. Malimath)
Chairman

/as/