

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1. 2091/88, and 199
~~Trax No~~ 2. 2301/90

DATE OF DECISION 14.2.1992

Shri Udal Singh

~~Petitioner~~ Applicant

Shri J.P. Verghese

Advocate for the ~~Petitioner(s)~~ Applicant

Versus

Delhi Administration & Another Respondent

Shri Dinesh Kumar (in 1 above)

Advocate for the Respondent(s)

Mrs. Geeta Luthra (in 2 above)

CORAM

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

The Hon'ble Mr. D.K. Chakraverty, Administrative Member.

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

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

Both these applications were heard together as the issues raised therein are inter-connected. It is proposed to deal with them in a common judgement.

2. These two applications have been filed by a Constable of Delhi Police seeking different reliefs. In OA-2091/88, he has prayed for setting aside the impugned orders dated 2.5.1985, 4.3.1986 and 23.7.1986 and ^{to} reinstate him from the date of termination with all consequential benefits. In OA-2301/90, he has prayed for quashing the charge-sheet dated 17.12.1984 and order dated 9.5.1985 passed by the respondents.

2. We have heard the learned counsel for both the parties and gone through the records carefully. The charge-sheet dated 17.12.1984 served on the applicant, refers to his periods of absence from duty unauthorisedly which are — alleged to amount to gross negligence, carelessness, dereliction and misconduct in the discharge of duty assigned to him. The respondents have stated that a departmental inquiry was ordered against the applicant while he was in service for the alleged misconduct, mentioned above. His services were terminated by invoking the power under Rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965, by the impugned order dated 2.5.1985.

3. The impugned order dated 2.5.1985 is an order simpliciter. However, misconduct of the applicant which is the subject matter of the disciplinary proceedings ^{is} the foundation of the order of termination. ^a initiated by the charge-sheet dated 17.12.1984. This is clear from the order dated 9.5.1985 passed by the disciplinary authority which reads as follows:-

"This is in connection with a departmental enquiry conducted under Rule 21 of the Delhi Police Act, 1978, ordered against Constable Udai Singh, No. 11860/DLP who was posted to Gas Coy. 1st Bn. DAP vide this office order No. 3910-20/Estt. 10th Bn. DAP dated 4.12.84, who absented himself from duty/Roll Call without any information/permission as under:-

Sl. No.	Absence marked vide D.D.No.	Turned up vide D.D.No.	Absence Period		
			Days	Hours	Minutes
1.	D.D.No. 18 dt. 19.8.84	D.D.No. 75 dt. 20.8.84	1	11	35
2.	D.D.No. 11 dt. 28.8.84	D.D.No. 89 dt. 29.8.84	1	4	10
3.	D.D.No. 74 dt. 9.9.84	D.D.No. 73 dt. 12.9.84	2	8	45

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2. The above act of Constable Udai Singh No. 11860/DAP amounts to gross negligence, carelessness, dereliction and misconduct in the discharge of duties assigned to him, which made him liable to departmental action u/s 21 of the Delhi Police Act, 1978, and a regular departmental enquiry was ordered. The departmental enquiry was entrusted to Shri P.D. Chaudhary, Inspector, 10th Bn. DAP. The Enquiry Officer has completed the departmental enquiry and submitted his findings on 3.5.85.

3. Constable Udai Singh No. 11860/DAP was enlisted as a temporary Constable and his services have already been terminated u.o.f. 2.5.85 vide this office order No. 2712-62/ASIP/X Bn. DAP dated 2.5.85 - under Sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965. As such, necessary orders in the departmental/ are kept in abeyance."

Enquiry

4. The impugned order of termination from service under Rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965, was issued on 2.5.1985 and the Enquiry Officer completed the departmental enquiry and submitted his findings on 3.5.1985. The surrounding circumstances

clearly indicate that the order dated 2.5.85 is punitive in nature.

5. The charge-sheet dated 17.12.1984 and the order dated 9.5.1985 are also not sustainable as departmental proceedings cannot be kept in abeyance in a case where the services of the Government servant have been terminated.

After termination, the master-servant relationship ceased to exist.

6. We are not impressed by the contention of the respondents that the applications are barred by limitation. The impugned orders in both the applications are not legally tenable and the plea of limitation is rejected.

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7. In the facts and circumstances of the case, the applications are disposed of with the following orders and directions:-

- (1) The impugned order of termination of service dated 2.5.1985 is set aside and quashed. The applicant shall be reinstated in service as Constable within a period of one month from the date of receipt of this order. He would also be entitled to arrears of pay and allowances from 2.5.1985 to the date of reinstatement which shall be released to him within a period of two months from the date of receipt of this order. After reinstating him, the respondents will be at liberty to initiate departmental enquiry against him afresh for any misconduct on his part, in accordance with law, if so advised. OA-2091/88 is disposed of on the above lines.
- (2) The charge-sheet dated 17.12.1984 and order dated 9.5.1985 are set aside and quashed. The respondents will, however, be at liberty to proceed against the applicant afresh as observed in (1) above. OA-2301/90 is disposed

of on the above lines.

(3) There will be no order as to costs.

Let a copy of this order be placed in both the case files.

(D.K. Chakraverty)
Administrative Member

(P.K. Kartha)
Vice-Chairman(Judl.)

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