

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-116/91

Date of decision: 4.3.1992

Shri Sukhbir Singh Applicant

Versus

Director General of
Police, Delhi Admn.
and Another Respondents

For the Applicant Shri B.K. Aggarwal, Advocate

For the respondents Shri M.K. Sharma, Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes
2. To be referred to the Reporters or not? No

JUDGMENT

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

The applicant, who has worked as a Constable in the Delhi Police, was removed from service by the respondents w.e.f. 10.9.1990 after holding an enquiry against him under the provisions of the Delhi Police Act read with the Delhi Police (Punishment & Appeal) Rules, 1980. He has also challenged the validity of the order dated 14.12.1990 passed by the appellate authority whereby the appeal preferred by him was rejected.

2. The version of the applicant is that he fell ill and applied for leave along with medical certificates from the C.S.H.S. dispensary for the period 1.2.1989 to 22.3.89. He had been living in Government accommodation at No.H-23, P.S. Mandir Marg, New Delhi. The respondents treated him on unauthorised absence and sent a registered notice dated 23.2.1989 to his village address. The notice was returned by the postal authorities undelivered. A charge-sheet was issued to the applicant on 25.7.1989 alleging the following:-

"You, Constable Sukhbir Singh No.127/P, while posted at NITC, PAP Unit, absented yourself unauthorisedly from duty from 7 PM on 1.2.89 without any permission/intimation from the competent authority and that an absentees notice was sent under registered post at your native place vide this office Memo. No.1548/SIP-P dated 27.2.1989 with direction to resume duty immediately but the same was returned by the postal authority with the remarks that the addressee is not residing in the village. On scrutinising the record, it is found that you are habitual absentee. You absented yourself from duty unauthorisedly on nine occasions and have been given several punishment and warning for your unauthorised absence but failed to improve. In the instant case, you again did not inform the Department and absented yourself from duty continuously, unauthorisadly and wilfully. You have failed to reform yourself and appear to be incorrigible and totally indisciplined."

The above act on your part amounts to grave misconduct and negligence in the discharge of your official duty and renders you liable for departmental action u/s 21 of Delhi Police Act of 1976, read with rules 14(4) of the Delhi Police (Punishment and Appeal) Rules, 1980."

After holding an enquiry, the impugned order of removal from service was passed.

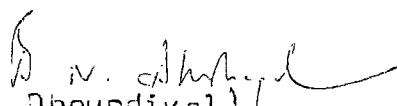
3. The applicant has alleged that the charge-sheet was issued by an Inspector of Police, who is not his

appointing authority. According to him, the Deputy Commissioner of Police is his appointing authority. He was transferred on 1.10.1989 from the office of D.C.P., I.G.I. Airport to D.A.P. (Delhi Armament Police) and from there on 1.2.1990 to D.C.P., East District, Delhi. According to him, the enquiry proceedings were held in violation of the rules and the principles of natural justice, and that the enquiry report is perverse. He has also alleged that the charge-sheet was not precise and was vague. He was also not afforded the opportunity to get a Defence Assistant, as is prescribed under the rules.

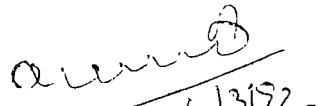
4. The respondents have denied the aforesaid allegations in their counter-affidavit. They have stated that the applicant was originally enlisted in the Delhi Police as a temporary Constable in 1965 and invalidated out of service on medical grounds in the same year. He was re-enlisted in the Police Department on 18.12.1972. On scrutiny of his service record, it came to light that he is a habitual absentee and had absented himself on nine occasions unauthorisedly and wilfully. In the instant case also, he neither informed his senior officers about his absence from duty, nor sent any intimation to the Department and absented himself from duty continuously in an unauthorised manner. According to them, he is an incorrigible and totally indisciplined officer.

he is empowered to punish him or recommend his discharge to the Deputy Commissioner of Police or other officer, who may be so empowered, or (b) proceed to frame formal charge or charges in writing, explain them to the accused officer and call upon him to answer them. The impugned order of punishment was also passed by the competent authority. According to Rule 14 (iv) of the said Rules, the disciplinary action shall be initiated by the competent authority under whose disciplinary control the Police Officer concerned is working at the time it is decided to initiate disciplinary action.

7. In the light of the foregoing, we see no merit in the present application and the same is dismissed. The interim order passed on 15.1.1991 restraining the respondents from dispossessing the applicant of the Government accommodation at H-28, P.S. Mandir Marg, New Delhi, in his possession, is hereby vacated. There will be no order as to costs.


(B.N. Dhoundiyal)

Administrative Member


(P.K. Kartha)
Vice-Chairman (Judi.)
4/3/92