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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.2748 of 1991

New Delhi: this the 1st day of JULY, 1997.

HON'BLE MR. S.R.ADIGE MEMBER(A).

HON'BLE MRS. LAKSHMI SWAMINATHAN MEMBER(J).

Shri Mahabir Prasad (Constable No.970/SW)
son of Shri Bhana Ram, R/o WZ-1484A,
Nangal Raya, Delhi -110046,
working in Bomb Squad, SD, Range,

R.K.Puram,
New Delhi

.....Applicant.

(By Advocate: Shri Shyam Babu)

Versus

1. Delhi Administration, Delhi
through its Chief Secretary,
5, Sham Nath Marg, Delhi - 110054.
 2. Addl. Deputy Commissioner of Police,
South West District,
New Delhi.
 3. Addl. Commissioner of Police,
(Southern Range),
New Delhi.,
Police Headquarters, I.P.Estate,
New Delhi - 110002.
 4. Commissioner of Police, Delhi.
Police Headquarters, I.P.Estate,
New Delhi- 110002.
- Respondents.

(By Advocate: Mrs. J.Kaushik).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicant impugns the Enquiry Report dated 14.5.90 (Annexure-F); the punishment order dated 29.6.90 (Annexure-G); the appellate order dated 24.9.90 (Annexure-I) and the revisional order dated 13.3.91 (Annexure-K) , and prays for all consequential benefits.

2. It was reported by SHO Vinaynagar that on 11.8.89 at 8-15 a.m. at Africa Avenue Picket
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applicant was absent after leaving his rifle in the booth. Another Constable namely Rameshwar Dayal informed the SHO that applicant had gone to the P.S., but he was not found there. Accordingly applicant was marked absent, and he made his arrival only at 7-45 p.m. on 11.8.89.

3. He was suspended by order dated 14.8.89 (Annexure-B), but that suspension was subsequently revoked on 4.10.89. He was chargesheeted for the above lapse on 31.1.90 (Annexure-A). The Enquiry Officer in his impugned report dated 14.5.90 (Annexure-F) held the charge as proved. Accepting those findings, the Disciplinary Authority in his impugned order dated 29.6.90 (Annexure-G) imposed the punishment of five years permanent forfeiture of service entailing proportionate reduction in pay and treatment of suspension period as not spent on duty. The appellate authority by impugned order dated 24.9.90 (Annexure-I) modified the punishment to forfeiture of two years' approved service, with suspension period to remain as not spent on duty, which was upheld in the impugned revisional order dated 13.3.91 (Annexure-K), against which this OA has been filed.

4. The first ground urged by applicant's counsel Shri Shyam Babu is that applicant could not have been placed under suspension in contemplation of a departmental proceeding. Reliance has been placed on Rule 27 Delhi Police (P & A) Rules and on AIR 1976 SC 1821 Chanan Singh Vs. Coop. Society. In our view, when it was reported to the Competent

Authority that on the morning of 11.8.89 applicant was absent after leaving his rifle in the picket booth, it was perfectly reasonable for that competent authority to place applicant under suspension by order dated 14.8.89 pending further inquiry, because allowing ones rifle to pass out of ones custody is indeed a serious act of misconduct on the part of a Constable. Nothing in Rule 27 (supra) prohibits placement of a police officer under suspension pending drawal of charges against him. Under the circumstance this ground fails and Chanan Singh's case (supra) is not relevant in the facts and circumstance of this particular case.

5. The next ground taken is that the suspension period could not be treated as not spent on duty in view of the fact that applicant was not dismissed/removed from service. No rule/instruction has been shown to us which lays down that suspension period can be treated as not spent on duty only where the punishment ends in dismissal/ removal.

6. During hearing Shri Shyam Babu also sought to argue that the rifle had in fact not been left unattended, but had been handed over to Constable Rameshwar Dayal and hence applicant cannot be said to have committed misconduct. This argument has no merit. When the SHO visited the picket at 8-15a.m. on 11.8.89 he found applicant absent. Applicant had then left his point of duty without the reliever and handed over his rifle to another Constable who already had a rifle. He also did not report back to the PS till late in the

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evening , which was indeed highly irresponsible on his part.

7. Respondents' counsel has also raised the plea of limitation, but as we are disposing of the case on merits, we are not going into the question of limitation.

8. Under the circumstance the OA warrants no interference. It is dismissed. No costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige

(S.R. ADIGE)
MEMBER(A).

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