

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.327/91

New Delhi : January 13, 1995.

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Vijay Singh,  
s/o Sh. Pratap Singh,  
r/o Village & P.O. Sahati Distt. Sonepat,  
Haryana .....Applicant.

By Advocate Shri A.S.Grewal.

Versus

1. Commissioner of Police,  
Delhi Police Headquarters, MSO Building,  
I.P. Estate, New Delhi.

2. Addl. Commissioner of Police,  
New Delhi Range, New Delhi,  
Delhi Police Headquarters, MSO Building,  
I.P. Estate, New Delhi.

3. Addl. Deputy Commissioner of Police,  
New Delhi District, New Delhi,  
Police Station Parliament Street,  
New Delhi. .... Respondents.

By Departmental Representative S.I.Makhan Singh.

JUDGMENT(ORAL)

By Hon'ble Mr.S.R.Adige, Member(A).

In this application, Shri Vijay Singh, Ex. Constable has impugned the order dated 3.5.90 dismissing him from service (Annexure-D), which has been upheld in appeal vide order dated 17.7.90 (Annexure-E).

2. The applicant, who was appointed in the Delhi Police as Constable on 20.2.78, was proceeded against on the charge (Annexure-C) that while posted at District Lines, he absented himself from Line's reserve duties unauthorisedly and wilfully and as such he was marked absent vide D.D. dated 17.8.88 and despite issuing of absentee notice to him on

19.8.88 and other official correspondence, he did not resume his duties and continuously absented himself from 17.8.88 until 3.1.89 i.e. for a period of 4 months 19 days 3 hours and 20 minutes. The charge further states that upon his medical examination, he was found to be <sup>a</sup>smack addict and was a habitual absentee who absented himself on 46 previous occasions.

3. The Enquiry Officer submitted his findings in which he held the applicant guilty of the charge levelled against him. Tentatively agreeing with the findings of the Enquiry Officer, a show cause notice was issued to the applicant as to why he should not be dismissed from service. The applicant submitted his reply to the same. After considering the reply, the Disciplinary Authority imposed the impugned order of punishment which was upheld in appeal, and it is against those two orders that this O.A. has been filed.

4. We have heard Shri A.S. Grewal for the applicant and S.I. Malkhan Singh, departmental representative, for the respondents.

5. The only two grounds advanced by Shri Grewal are that i) the applicant's absence was not wilful or unauthorised as supported by the medical certificate; and ii) the details of previous absences were not mentioned in the charge-sheet or communicated to the applicant in the proceedings, and inspite of that the severe punishment of dismissal has been inflicted.

6. We have given our careful consideration to

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these grounds but none of them bear scrutiny, nowhere  
~~in has the application~~ <sup>because</sup> explained what prevented him from filing the  
application of leave, if indeed he was ill as  
claimed by him. It is well settled that no Govt.  
servant, and much less ~~than~~ <sup>than</sup> who belongs to <sup>the</sup> disciplined  
force such as Police, can be permitted to absent  
himself from duty for long stretches of time,  
without filing a proper application of leave. No  
leave can be claimed as of right, and each day's  
absence from duty has to receive the permission  
of the competent authority through a proper  
application of leave. Under the circumstances,  
this argument fails.

7. The second argument that the details  
of the previous absences were not included  
in the charge sheet and hence the severe punishment  
of dismissal could not be inflicted on the applicant,  
also does not carry merit. The applicant has  
nowhere denied that he was not absent on previous  
occasions also, and prima facie from the  
materials on record, it appears that he was a  
habitual absentee, and incorrigible type of person,  
and the respondents rightly found the applicant  
guilty of misconduct and unfit for police service.

8. In the result, we see no reason to interfere  
with the impugned orders and the D.A. is accordingly  
dismissed. No costs.

A. Vedavalli  
(DR. A. VEDAVALLI)  
MEMBER (J)

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