

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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C.A./T.A. No. 870/91 /19 Decided on: 21.2.97

Ajit Singh

..... APPLICANT(S)

(By Shri Shankar Raju Advocate)

VERSUS

NCT, Delhi & Ors.

..... RESPONDENTS

(By Shri Anoop Bagai Advocate)

ORAM

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

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

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

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

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

(20)

O.A. No.870 of 1991

New Delhi, dated this the 21st February, 1997

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

Shri Ajit Singh,
S/o Shri Balbir Singh,
Ex-Constable, DAP,
New Police Line, Delhi.
R/o Vill. & P.O. Nahara,
Dist. Sonepat,
Haryana. APPLICANT

(Advocate: Shri Shankar Raju)

VERSUS

1. Delhi Admn.
through the Chief Secretary,
Delhi Admn.,
5, Shamnath Marg,
Delhi.
2. Addl. Commissioner of Police (AP),
Police Head Quarter,
M.S.O. Building,
ITO,
New Delhi.
3. Dy. Commissioner of Police,
3rd Bn., D.A.P.,
Kingsway Camp,
Delhi. RESPONDENTS

(Advocate: B.S. Oberoi proxy
counsel for Shri Anoop Bagai)

JUDGMENT

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

Applicant has impugned the appellate
order dated 25.9.90 (Ann. A) confirming the
disciplinary authority's Order dated 23.3.90
into which it has merged, dismissing the
applicant from service.

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2. Applicant was proceeded against departmentally on the charge that he absented himself unauthorisedly from duty on 4 different occasions totalling 101 days. The E.O. held the charge as proved. Show cause notice against dismissal from service was served upon the applicant to which he submitted reply. After giving personal hearing to applicant and duly considering his reply which he found to be unsatisfactory, the disciplinary authority imposed the punishment of dismissal from service, which was upheld in appeal against which the present O.A. has been filed.

3. We have heard applicant's counsel Shri Shankar Raju and the respondents' counsel Shri B.S.Oberoi proxy counsel for Shri Anoop Bagai.

4. The only ground taken by Shri Shankar Raju is that there has not been any finding of grave misconduct under Rule 8(a) Delhi Police (P&A) Rules nor any finding of complete unfitness for police service under Rule 10 of above Rules and hence the punishment of dismissal cannot be sustained. Reliance is placed on the C.A.T., Principal Bench judgment dated 23.9.94 in O.A. No. 802/90 Dalip Singh Vs. L.G. Delhi & Ors. which was upheld by the Hon'ble Supreme Court vide order dated 12.3.95 in SLP No. 12208/95, and in judgment dated 26.7.96 in O.A. No.78/92 Bhoop Singh Vs. Commissioner of Police & Ors.

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5. In this connection respondents' counsel has invited our attention to Hon'ble Supreme Court's judgment dated 10.11.95 in ^{1 (1996) 32 A.T.C. 2391} State of U.P. & Ors. Vs. A.K.Singh & Ors. in which their Lordships, while setting aside the Allahabad High Court's order ~~was~~ ^{was} pleased to hold that the High Court had wrongly held that absence of a police constable on several occasions was not such a grave misconduct as to warrant removal. Relevant extracts of that judgment are quoted below:

" The High Court exceeded its jurisdiction in modifying the punishment while concurring with the findings of the Tribunal on facts. The High Court failed to bear in mind that the delinquent was a police constable and was serving in a disciplined force demanding strict adherence to the rules and procedures more than any other dept. Having noticed the fact the first respondent has absented himself from duty without leave on several occasions, one cannot appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge'. Even otherwise on the facts of the case, there was no justification for the High Court to interfere with the punishment holding that " the punishment was not commensurate with the gravity of the charge" especially when the High Court concurred with the findings of the Tribunal on facts."

6. On the question of there not being any specific finding in the impugned order of the applicant being totally unfit for service, our attention has been invited to the C.A.T., Principal Bench Judgment dated 10.1.95 in O.A. No.2252/90 Phool Kumar Vs. Commissioner of Police. That judgment noticed the C.A.T., Division Bench Judgment in Dalip Singh's case (Supra) (but before the Hon'ble Supreme Court's orders dated 12.3.95 in SLP No.12208/95 were made available in the Tribunal) but held that the C.A.T., Full Bench judgment dated 4.8.93 in O.A. No.1344/90 Hari Ram Vs. Delhi Admn. & Ors. would prevail wherein it had been held that it was enough if on a plain reading of the impugned order it was clear that the competent authority intended to terminate the services of the delinquent, even if there was no specific recital in the order that he was completely unfit for service. As stated above, when the judgment in Phool Kumar's case was delivered on 10.1.95 the Tribunal did not have the benefit of the Hon'ble Supreme Court's order dated 12.3.95 in SLP No.12208/95 upholding the Tribunal's judgment in Dalip Singh's case.

7. Since then, the Tribunal's judgment in Phool Kumar's case has itself been upheld by the Hon'ble Supreme Court on 4.9.96 dismissing SLP No. 18668/96¹

8. In the present case we note that the unauthorised and wilful absence of the applicant from duty on four different occasions totalling 101 days stands proved. The Hon'ble Supreme Court in A.K. Singh's case (Supra) dated 10.11.95 has been pleased to hold that a police constable serving in a disciplined force demands adherence to rules and procedures more than any other dept. and it is wrong to hold that unauthorised absence of a police constable on several occasions is not grave misconduct. In his appellate order dated 25.9.90 the Addl. Commissioner of Police has categorically held that the applicant's frequent absences show that he is an incorrigible type, and he found no justification to warrant any interference in the disciplinary authority's conclusions that the applicant by his conduct had displayed apathy to work and carelessness in the discharge of his responsibilities.

9. In the light of the above it must be held that the provisions of Rule 8(a) have been satisfied in as much as the applicant has been guilty of grave misconduct by absenting himself unauthorisedly from duty on several occasions. Similarly from the appellate authority's order dated 25.9.90 categorically holding that the applicant was an incorrigible type and confirming the disciplinary authority's findings that the

applicant was apathetic towards work, careless in the discharge of his responsibilities and his continued presence in the force would ^{com}promise the very foundations of discipline, it cannot be said that the provisions of Rule 10 are not satisfied, even if it is not stated in so many words that the applicant ^{is} completely unfit for service.

10. In the result the O.A. is dismissed.
No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
Member (J)

/GK/

S.R. Adige

(S.R. ADIGE)
Member (A)