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Central Administrative Tribunal, Principal Bench

Original Application No.1038 of 2004

New Delhi, this the 12th day of May, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

Yogendra Pal Singh
S/o late Shri Durga Singh,
R/o B-337, Gali No.3,
Meet Nagar, Shahdara,
Delhi-94

....Applicant

(By Advocate: Shri P.K. Bahl)

Versus

1. The Union of India,
through the Secretary,
Ministry of Defence,
New Delhi
2. General Manager,
Opto Electronic Factory,
Raipur, Dehradun (Uttaranchal)
Pin-248008
3. Additional Director,
A.V.H.Q., Avadi,
Chennai-600 054

....Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks to assail the order passed by the disciplinary as well as the appellate authority. A penalty of removal from service has been imposed by the disciplinary authority which has been upheld by the appellate authority.

2. Learned counsel for the applicant contends that there has been no fair enquiry. No evidence has been recorded to show that the applicant was absent from duty. There is no admission by the applicant. Principles of natural justice have been ignored and, therefore, the

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findings that have been so arrived at, cannot be sustained.

3. Some of the facts conjoled from the petition can be delineated for appreciating the said argument. The applicant joined service in December, 1989. According to him, in June, 1996, his daughter fell unwell. He was advised to take care of his daughter. He had sent his leave application for one month. According to the applicant, he joined duty on 26.6.98 but was not allowed to do so. On the ground of continuous absence, a chargesheet had been served which has resulted in passing of the impugned order.

4. In support of his pleas to which we have referred to above, learned counsel for the applicant has drawn our attention to the report of the enquiry officer so as to indicate that the said principles are not applicable in the present case because no evidence was recorded.

5. Perusal of the enquiry report clearly shows that the applicant, during the course of the enquiry, had accepted that he absented himself from duty with effect from 10.6.96 and that no application was submitted by him. To state therefore that the statement should have been recorded, would not be a correct view in the facts of the present case. Reasons are not far to fetch. It is specifically stated by the appellate authority that the applicant accepted his absence for the relevant period. We find no reason as to why such an incorrect fact would be recorded. Even on 26.4.2004, we had adjourned the matter

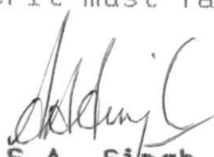
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for today to get the necessary instructions if the applicant, during the relevant period, was absent or not. No fresh fact that the applicant in fact was absent from 10.6.96 till he joined the duty is on the record. The only logical conclusion therefore would be that the fact so recorded is correct. Facts which are admitted need not be proved. Therefore, it would be an exercise in futility to record further evidence in this regard.

6. Taking stock of the abovesaid facts and the pleas so much thought of and eloquently put forward, are without merit. They must be stated to be rejected.

7. Resultantly, the present O.A. being without merit must fail and is dismissed in limine.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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