

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(12)

O.A. No. 1829 of 1992

New Delhi dated the ¹⁶25th March 1998

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

Bijender Singh,
S/o Shri Mahender Singh,
R/o Vill. & P.O. Barahi,
P.S. Bahadurgarh,
Dist. Rohtak (Haryana) APPLICANT

(By Advocate: Shri J.P.S. Sirohi)

VERSUS

1. Commissioner of Police,
Police Headquarters,
MSO Building,
I.P. Estate, New Delhi-2.
2. Addl. Commissioner of
Police (Ops.),
Police Hqrs., M.S.O. Building,
I.P. Estate, New Delhi-2.
3. Dy. Commissioner of Police,
I.G.I. Airport,
New Delhi.
4. Inspector Noor Ahmed,
No. D-1/307,
E.O., IGI Airport,
New Delhi
(Through DCP, IGI Airport,
New Delhi) ...RESPONDENTS

(By Advocate: Shri Amresh Mathur)

JUDGMENT

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

Applicant impugns respondents' order dated 4.10.90 (Ann. A-1), dated 12.8.91 (Ann. A-2) and dated 6.11.91 (Ann. A-3) as also the summary of allegations dated 20.10.90 (Ann. 4) and the charges and prays for reinstatement as Constable in Delhi Police with consequential benefits.

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2. Applicant was proceeded against departmentally on the charge of repeated unauthorised absences from duty. The E.O. in his findings dated 5.5.1991 (Annexure III to respondents' reply) held the charges as proved. A copy of the findings were furnished to applicant vide U.O. dated 7.6.91 for making representation if any. Applicant submitted his representation, which was considered by the Disciplinary Authority who passed the impugned order dated 12.8.91 removing applicant from service which was upheld in appeal vide impugned order dated 6.11.91.

3. The main grounds taken by applicant are that his absences from duty were not wilful or unauthorised but occasioned by illness which was beyond his control for which he was receiving treatment in Govt. hospitals/dispensaries or was advised bed rest as per advice of doctor. In other words applicant does not deny his absences from duty but asserts that his illness gives him an enforceable legal right to absent himself from duty without making proper application for the same.

4. Leave rules as well as respondents S.O. No.111 make it abundantly clear that no leave can be claimed as of right. The point at issue is not whether applicant was ill on the days of his absences or not, but why in accordance with rules he did not make proper applications for leave in respect of each of his frequent absences. In

State of U.P. Vs. Ashok Kumar Singh 1996 (32)ATC 239 the Hon'ble Supreme Court has held that absence of a police constable on several occasions was wrongly held by the High Court to be not such a grave misconduct as to warrant removal. Applicant has not produced any materials to suggest that he made proper application for leave in respect of each of his frequent absences from duty.

5. Nothing has been shown to us to suggest that there was any material infirmity in the conduct of the proceedings which prejudiced applicant in his defence and which would warrant our judicial interference.

6. The O.A. is therefore dismissed. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
MEMBER (J)

/GK/

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)