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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

1). O.A. 139/1992
2). O.A. 1322/1992
3). O.A. 1019/1995
4). O.A. 1373/1996
5). O.A. 1580/1996
6). O.A. 2442/1993
7). O.A. 1199/1994
M.A. 513/1999
8). O.A. 1823/1994
9). O.A. 2699/1997
10). O.A. 1032/1995
11). O.A. 16/1996
12). O.A. 510/1997
13). O.A. 1651/1994
14). O.A. 711/1995
15). O.A. 3258/1992
16). O.A. 1779/1994
17). O.A. 2974/1992
18). O.A. 3267/1992
19). O.A. 2682/1992

New Delhi this the 28th day of July, 1999.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI N. SAHU, MEMBER (A)

HON'BLE SHRI S. P. BISWAS, MEMBER (A)

1). O.A. 139/1992

Virender Kumar S/O Om Prakash Sharma,
R/O Village Ardha, P.O. Sarai Ghasi,
Distt. Bulandshahar (UP). ... Applicant

vs.

1. Commissioner of Police, Delhi,
Delhi Police Headquarters,
MSO Building, I.P.Estate,
New Delhi-110002.

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

3. Addl. Dy. Commissioner of Police,
South District, Hauz Khas,
New Delhi. ... Respondents

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2). **O.A. 1322/1992**

Ashok Kumar (6098/DAPO,
Ex-Constable, S/O Lal Singh,
R/O Village Anarwala,
P.O. Garhi Cantt.,
Distt. Dehradun (UP). ... Applicant

vs.

1. Union of India through the
Delhi Administration, Delhi,
through its Chief Secretary,
5, Shamnath Marg, Delhi.

2. Deputy Commissioner of Police,
Ist Bn. DAP, Delhi.

3. Addl. Commissioner of Police
(Armed Police), Police Hqrs.,
Indraprastha Estate,
New Delhi-110002. ... Respondents

3). **O.A. 1019/1995**

Anil Kumar S/O Mange Ram Sharma,
R/O Village Dattaur,
P.O. Sampla,
Distt. Rohtak (Haryana). ... Applicant

vs.

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

2. Dy. Commissioner of Police,
Rashtrapati Bhawan,
New Delhi. ... Respondents

4). **O.A. 1373/1996**

Ex.Const. Rohtas Singh No.10219/DAP
S/O Hari Singh,
R/O Village Ajaib Tehsil : Mahim,
Distt. Rohtak (Haryana). ... Applicant

vs.

1. Union of India through
Secretary, Ministry of
Homa Affairs, North Block,
New Delhi.

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

For

3. Sr. Addl. Commissioner of Police
(A.P. & T.), Police Hqrs.,
MSO Building, I.P.Estate,
New Delhi. ... Respondents

5). **O.A. 1580/1996**

Ex.Const. (Driver) Dalbir Singh
No.2623/PCR S/O Ram Kishen,
R/O Vill. & P.O. Bidhal,
P.S. Gohana,
Distt. Sonepat (Haryana). ... Applicant

vs.

1. Union of India through
Secretary, Ministry of
Homa Affairs, North Block,
New Delhi.

2. Addl. Commissioner of Police
(Operations), Police Hqrs.,
MSO Building, I.P.Estate,
New Delhi.

3. Dy. Commissioner of Police,
Police Control Room,
Police Hqrs., MSO Building,
I.P.Estate, New Delhi. ... Respondents

6). **O.A. 2442/1993**

Ex.Const. Nek Pal Singh No.433/NE
(4635/DAPO S/O Balbir Singh,
R/O Vill. & P.O. Kinoni,
P.S. Shahpur,
Distt. Muzaffarnagar (UP). ... Applicant

vs.

1. Delhi Administration (National
Capital Territory of Delhi)
through Addl. Commissioner of
Police, Police Headquarters,
MSO Building, I.P.Estate,
New Delhi.

2. Addl. Dy. Commissioner of Police,
North-East Distt.,
Shahdara, Delhi. ... Respondents

7). **O.A. 1199/1994**
M.A. 513/1999

Jasbir Singh (Deceased)
through Legal Heir Smt. Anita
w/o Late Jasbir Singh,
R/O Village Dariya Pur,
Delhi. ... Applicant

vs.

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

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

3. Addl. Dy. Commissioner of Police,
West Distt., P.S.Rajouri Garden,
New Delhi. ....Respondents

8). **O.A. 1823/1994**

Ramesh Chandra S/O Sukhvir Singh
(No.8942/8848 DAP VII Bn./DAP),
R/O Vill. Mitraon,
P.S.Nazafgarh, Delhi. ... Applicant

vs.

1. Union of India through
Chief Secretary,
Delhi Administration,
New Delhi.

2. Addl. Dy. Commissioner of Police (AP&T),
Police Headquarters, I.P.Estate,
New Delhi.

3. Dy. Commissioner of Police, VIIth Bn.,
Delhi Armed Police,
Delhi. ... Respondents

9). **O.A. 2699/1997**

Shamsher Singh (4812/DAP)
S/O Tek Chand,
R/O Vill. Mirzapur,
P.S. Narnaul, P.O.Bachod,
Distt. Mahendragarh (Haryana). ... Applicant

vs.

1. Sr. Addl. Commissioner of Police
(AP&T), Police Headquarters,
I.P.Estate, New Delhi.

2. Dy. Commissioner of Police,
5th Bn. DAP,
Kingsway Camp, Delhi. ... Respondents

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10). O.A. 1032/1995

Hari Singh Meena, Ex.Ct. No.1556/C
S/O Bhola Ram Meena,
R/O Village Harsali,
Teh. Kishan Garh Bans,
Distt. Alwar (Rajasthan). ... Applicant

vs.

1. Union of India through
Commissioner of Police,
PHQ Building, I.P.Estate,
New Delhi.

2. Addl. Commissioner of Police,
Northern Range, Delhi,
PHQ Building,
New Delhi.

3. Addl. Dy. Commissioner of Police,
Central Distt., Delhi,
Darya Ganj, Delhi. ... Respondents

11). O.A. 16/1996

Ex. Head Const. Ram Niwas No.8392/DAP
S/O Biriya Ram Meena,
R/O Village Behari Pur,
P.S. Dabla,
Distt. Seekar (Rajasthan). ... Applicant

vs.

1. Union of India/Lt. Governor
of N.C.T. of Delhi through
Commissioner of Police,
Police Headquarters,
MSO Building, I.P.Estate,
New Delhi.

2. Sr. Addl. Commissioner of Police,
Armed Police & Training,
Police Headquarters,
MSO Building, I.P.Estate,
New Delhi. ... Respondents

12). O.A. 510/1997

Maha Singh (2584/D)
Ex. Asstt. Sub Inspector,
S/O Late Amar Nath,
R/O Mohalla Bhatiaya Gate,
Ward No.II, Vill. Jhajhar,
P.O. Jhajhar,
Distt. Rohtak (Haryana). ... Applicant

vs.

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

2. Sr. Addl. Commissioner of Police
(P&I), Police Headquarters,
I.P.Estate, New Delhi.

3. Dy. Commissioner of Police/FRRO,
Hans Bhawan,
Bahadur Shah Zafar Marg,
New Delhi. ... Respondents

13). O.A. 1651/1994

Ex.Const. Vijay Pal Singh
No.443/NE(1030/NE)
S/O Harsharan Singh,
R/O M-115 Shahadatpur Extn.,
MSO Building, I.P.Estate,
New Delhi. ... Applicant

vs.

1. Lt. Governor of N.C.T.D.
through Commissioner of Police,
Police Headquarters,
MSO Building, I.P.Estate,
New Delhi.

2. Addl. Dy. Commissioner of Police
(North-East Distt.),
Bhajanpura, Shahdara,
Delhi. ... Respondents

14). O.A. 711/1995

Ex.Const Devender Singh
S/O Kartar Singh,
R/O Vill. Jharothi,
Post Jharoth,
Distt. Sonepat (Haryana). ... Applicant

vs.

1. N.C.T. of Delhi through
Chief Secretary,
Old Secretariat, Delhi.

2. Commissioner of Police,
Delhi Police Headquarters,
I.P.Estate, New Delhi.

3. Addl. Commissioner of Police,
Delhi Police Headquarters,
I.P.Estate, New Delhi.

4. Dy. Commissioner of Police,
10th Bn., DAP, Pretam Pura,
New Delhi. ... Respondents

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15). O.A. 3258/1992

Sahib Singh Ex. Const. D.P.
No.951/DAP Ist Bn. DAP
S/O Suraj Mal,
Vill. Ridhow,
P.O.Farmano,
Distt. Sonepat (Haryana). ... Applicant

vs.

1. Delhi Administration through
Chief Secretary, Old Secretariat,
Delhi.

2. Commissioner of Police,
Police H.Q.,
I.T.O., Delhi.

3. Addl. Commissioner of Police,
Armed Forces, Delhi,
I.T.O., Delhi.

4. Dy. Commissioner of Police,
Ist BN. DAP Delhi,
Kingsway Camp, Delhi. ... Respondents

16). O.A. 1779/1994

Jeet Singh (404/DAP) Ex. Const.
S/O Niranjan Singh,
R/O Village & Post Office
Gungakheri, P.O. Babli,
Distt. Meerut (UP). ... Applicant

vs.

1. Dy. Commissioner of Police,
Ist Bn., DAP, New Police Lines,
Kingsway Camp, Delhi.

2. Addl. Commissioner of Police
(AP&T), Police Headquarters,
I.P. Estate, New Delhi. ... Respondents

17). O.A. 2974/1992

Vijay Kumar S/O Kirpa Ram
R/O E-18, Krishna Park,
Khanpur Devli Road,
New Delhi-110062. ... Applicant

vs.

1. Lt. Governor of Delhi,
Delhi Administration, Delhi,
Sham Nath Marg,
Delhi-110007.

For

2. Commissioner of Police,
PHQ Building, I.P.Estate,
New Delhi-110002.

3. Addl. Commissioner of Police
(Southern Range),
Police Headquarters,
PHQ Building, I.P.Estate,
New Delhi-110002.

4. Dy. Commissioner of Police,
South District,
New Delhi. ... Respondents

18). O.A. 3267/1992

Ex.S.I. Bhola Ram Meena No.D/2005
S/O Mool Chand Meena,
R/O Vill. & P.O. Danar,
P.S. Kot Putli,
Distt. Jaipur (Rajasthan). ... Applicant

vs.

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

2. Dy. Commissioner of Police
(Crimes & Railways),
Police Headquarters,
M.S.O. Building,
New Delhi. ... Respondents

19). O.A. 2682/1992

Ex.Const. Kamlakar Dubey No.2246/SD
S/O Nand Kumar Dubey,
R/O Atr. No.3, Sector-VII,
C.P.W.D. Enquiry Office,
Pushp Vihar,
Delhi-110017. ... Applicant

vs.

1. Addl. Commissioner of Police
(Southern Range), Police Hqrs.,
MSO Building, I.P.Estate,
New Delhi.

2. The Dy. Commissioner of Police
(South District), Hauz Khas,
New Delhi. ... Respondents

For Applicants : Shri Shyam Babu, Shri M. K. Gupta,
Shri Shankar Raju, Shri V. P. Sharma,
Shri S. S. Tiwari, Advocates.

For Respondents: Shri Bhaskar Bhardwaj, Shri Raj Singh, Shri Anil Singhal, Shri Amresh Mathur, Shri Surat Singh, Shri S. K. Gupta, Shri Jog Singh, Shri Girish Kathpalia, Shri Vijay Pandita, Shri Rajinder Pandita, Ms. Jyotsna Kaushik, Advocates.

O R D E R

Shri Justice K. M. Agarwal :

Without noticing the Full Bench decision of this Tribunal in HARI RAM vs. DELHI ADMINISTRATION AND OTHERS, (O.A. No.1344/1990, dated 4.8.1993) reported in Full Bench Judgements of Central Administrative Tribunals 1991-1994 at page 240 and in (1993) 25 ATC (FB) 697, a Division Bench of this Tribunal in DALIP SINGH vs. LT. GOVERNOR OF DELHI AND ORS., (O.A. No.802/1990, dated 23.9.1994), took the view that though the "Disciplinary Authority has found that the applicant is a habitual absentee and that he is an incorrigible type of person, he has not rendered a finding that the charge proved against him is one of grave misconduct rendering him unfit for police service" and that in the light of Rule 10, "a finding should be recorded that the person is completely unfit for police service before a police officer is dismissed from service." It was upheld by the Supreme Court in Special Leave to Appeal (Civil) No.12208/95 (2465) dated 12.5.1995. Subsequently another Division Bench of the Tribunal in PHOOL KUMAR vs. COMMISSIONER OF DELHI AND ORS., (O.A. No.2252/1990, dated 10.1.1995) after considering the decision of the Division Bench in DALIP SINGH's case and the Full

Bench decision in **HARI RAM's** case took the view that "if the tenor of the punishment order reflected the **fact that the delinquent was guilty of grave misconduct rendering him unworthy and unfit for police** service, it would be sufficient, and it was not necessary that a positive finding should be recorded that the person was unworthy and unfit for retention in police service." In this background and in the context of the provisions of Rules 8 (a) and 10 of the Delhi Police (Punishment and Appeal) Rules, 1980 (in short, "Delhi Police Rules"), the following questions have been referred in the first seven O.As. by the Division Bench for consideration by this Full Bench :

> "(i) Whether the disciplinary authority is required to record a specific finding that the delinquent official is guilty of grave misconduct rendering him unfit for police service before passing the punishment of dismissal or removal from service in terms of Rule 8(a).
>
> (ii) Whether Rule 8(a) only lays down a principle and following the judgement of the Supreme Court in **Ashok Kumar Singh's case (supra)**, any unauthorised absence from duty of an official in a disciplined force automatically amounts to grave misconduct rendering him unfit for police service for which a punishment of dismissal or removal from service is justified; and
>
> (iii) Generally - the above questions read with Rule 10."

As similar questions were involved in the other O.As at Sl. Nos. 8 to 19 above, they were also directed to be heard by the Full Bench along with the aforesaid seven O.As before the Full Bench.

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2. The applicants in O.As 139/92, 1322/92, 1019/95, 1373/96, 1580/96, 2442/93, 1199/94, 1823/94, 2699/97, 1032/95, 1651/94, 711/95, 3258/92, 2974/92 and 2682/92 at Sl. Nos. 1 to 10, 13 to 15, 17 and 19 were Constables in Delhi Police under the Delhi Administration, who were dismissed from service, except the applicant in O.A. No.1019/95 at Sl. No.3, who was removed from service on the ground of unauthorised absence during various periods after due departmental enquiries for the alleged misconduct against them. The applicant in O.A. No.1580/96 at Sl. No.5 above was a Constable (Driver). In O.A. No.1199/94 at Sl. No.7, the applicant died during the pendency of the O.A., and therefore, his legal representatives were brought on record, who are prosecuting the O.A. The applicant in O.A. No.16/96 at Sl. No.11 was Head Constable and the applicant in O.A. No.3267/92 at Sl. No.18 was S.I. in Delhi Police, who were also dismissed from service on the ground of unauthorised absence after due departmental enquiries against them. Applicant in O.A. No.510/97 at Sl. No.12 above was ASI who was dismissed from service on the alleged misconduct of extortion of money from one Naseem Ahmed at I.G.I. Airport. The applicant in O.A. No.1779/94 at Sl. No.16 was a Constable in Delhi Police who was dismissed from service on the ground of indiscipline, insubordination and rumour-mongering. The applicant in O.A. No.2682/92 at Sl. No.19 was dismissed from service on the misconduct of extortion of money from one Jai Prakash. In all these cases, the penalty orders were challenged on the ground that the disciplinary

authority did not record any specific finding about "grave misconduct" rendering the delinquent officer unfit for Police service as per requirement of Rule 8(a) of the Delhi Police Rules and that for that reason and in the light of Rule 10 of the Delhi Police Rules, the extreme penalty of dismissal could not be imposed on the delinquent officers. It appears from paragraph 1 of the order of reference that certain additional grounds of attack were sought to be urged by the learned counsel for the applicant in O.A. No.1019/95 at Sl. No.3, but the Division Bench considered only the common questions that were involved in all the seven cases referred to the Full Bench.

3. Before considering the rival contentions, it appears necessary to reproduce the provisions of Rules 8 (a) and 10 of the Delhi Police Rules. They are as follows :

> "8. **Principles for inflicting penalties-**
>
> (a) **Dismissal/Removal.** - The punishment of dismissal or removal from service shall be awarded for the act of grave misconduct rendering him unfit for police service." (Emphasis given).
>
> "10. **Maintenance of discipline** - The previous record of an officer, against whom charges have been proved, if shows continued misconduct indicating incorrigibility and complete unfitness for police service, the punishment awarded shall ordinarily be dismissal from service. When complete unfitness for police service is not established, but unfitness for a particular rank is proved, the punishment shall normally be reduction in rank." (Emphasis given).

4. Referring to the D.B. decision of this Tribunal in **DALIP SINGH's** case (supra), it was argued by the learned counsel for the applicants that in the absence of a specific finding about "grave misconduct" rendering the delinquent officer unfit for police service and that of his "complete unfitness for police service", the extreme penalty of dismissal or removal from service could not be awarded to the applicants and, therefore, the impugned orders of penalty were vitiated and liable to be quashed. Reliance was also placed in a decision of Punjab and Haryana High Court in **STATE OF PUNJAB** vs. **PARKASH CHAND**, 1992 (1) SLR 174 (P&H) and in that of Delhi High Court in **SUKHBIR SINGH** vs. **DEPUTY COMMISSIONER OF POLICE (DELHI)**, 1984 (2) SLR 149 (Delhi).

5. Assuming that the D.B. decision of the Tribunal in **DALIP SINGH's** case was in conflict with the Full Bench decision of the Tribunal in **HARI RAM's** case (supra), it was further argued that by affirming the D.B. decision in **DALIP SINGH's** case by a speaking order in an SLP against it, the Supreme Court over-ruled the said Full Bench decision of the Tribunal by necessary implication.

6. In **HARI RAM's** case (supra) the Full Bench discussed the point and held :

> "It was lastly urged by the learned counsel for the petitioner that the disciplinary authority has not applied its mind to the provisions of Rule 8(a) of the Delhi Police (Punishment & Appeal) Rules, 1980 which says that the punishment of dismissal or removal from service shall be awarded only for the act of grave misconduct

rendering him unfit for the police service. The impugned order does indicate that the mandate of this statutory provision was borne in mind by the disciplinary authority. We say so for the reason that the **disciplinary authority has in categorical** terms recorded a finding to the effect that the petitioner is unworthy and unfit for retention in service. It is further recorded that the petitioner is a habitual absentee and an incorrigible type of constable the punishment of removal from service being the most appropriate punishment. Having regard to these findings we have no hesitation in holding that the disciplinary authority was satisfied that the petitioner was guilty of grave misconduct rendering him unworthy and unfit for retention in service. Hence, there is no substance in this case." (Emphasis supplied)

In SLP against **DALIP SINGH's** case the Supreme Court said :

"In the light of Rule 10 which says, "When complete unfitness for police service is not established, but unfitness for a particular rank is proved, the punishment shall normally be reduction in rank "and in the absence of a finding in the order of disciplinary authority regarding complete unfitness of the respondent for the service, we cannot say that the Tribunal's order is wrong. It is obvious that Rule 10 constricts the discretion which a disciplinary authority otherwise possesses. Learned Addl. Solicitor General requested that the restriction placed by the Tribunal that while passing fresh order with respect to penalty viz that only a penalty other than dismissal or removal should be awarded, is not justified in the circumstances of the case. We are also not satisfied on this score, because we cannot now permit the disciplinary authority to fill the lacuna by recording a finding to that effect. In the circumstances, we are not able to say that the order of the Tribunal is wrong. The Special Leavae Petition is accordingly dismissed." (Emphasis given).

7. In **STATE OF MANIPUR** vs. **THINGUJAM BROJEN MEETIE**. 1996 SCC (L&S) 1181 the Supreme Court said :

> ".....The dismissal of a special leave petition by a non-speaking order which does not contain the reasons for dismissal does **not amount to acceptance of the correctness** of the decision sought to be appealed **against. The effect of such a non-speaking** order of dismissal without anything more only means that this Court has decided only that it is not a fit case where the special leave petition should be granted. Such an order does not constitute law laid down by this Court for the purpose of Article 141 of the Constitution."

But an order made on the merits of a case in an SLP has a binding force, as held by the Supreme Court in **JUNIOR TELECOM OFFICERS FORUM** vs. **UNION OF INDIA**, 1993 Supp (4) SCC 693. To quote :

> "21....The order made by this Court in SLP (C) Nos.3384-86 of 1986 interfering with the judgment of the Allahabad High Court to a limited extent is an order made on the merits of the case as is quite apparent from the expressions used in that order and is a binding precedent." (Emphasis given).

So we take it that the order of the Supreme Court in SLP against **DALIP SINGH's** case is a binding precedent. But the Supreme Court does not say anything about the provisions of Rule 8(a) and with reference to Rule 10, it says that "when complete unfitness for police service is not established, but unfitness for a particular rank is proved, the punishment shall normally be reduction in rank and in the absence of a finding in the order of disciplinary authority regarding complete unfitness of the respondent for the service" the punishment of dismissal from service may not be correct. It is further said that "Rule 10 constricts the discretion which a disciplinary authority otherwise possesses." But the question is to what extent and in what cases, the discretion is constricted. As we understand, the lowest rank in

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police service is that of Constable and, therefore, if a constable is found guilty of grave misconduct rendering him unfit for police service under Rule 8(a), but is not found, on the basis of his previous record, guilty of continued misconduct indicating incorrigibility and complete unfitness for police service, he cannot be subjected to the normal punishment of reduction in rank under Rule 10, because there is no rank below the rank of a Constable. In such cases, therefore, the discretion of the disciplinary authority may not be fettered. In other cases, where the order does not show continued misconduct indicating incorrigibility and complete unfitness for police service, the normal punishment of reduction in rank under Rule 10 may be substituted in place of dismissal or removal from service. The Supreme Court does not say that in every such case, the punishment of dismissal or removal from service must be quashed and case remanded to the disciplinary authority for fresh order in the light of Rule 10 of the Delhi Police Rules. The Supreme Court also does not say that under Rule 8(a) or 10, a definite or specific finding is required to be recorded in the punishment order about the "continued misconduct", "incorrigibility" or "complete unfitness" for police service before passing the order of punishment for dismissal or removal from service. We are, therefore, of the view that the Full Bench decision of this Tribunal in **HARI RAM's** case (supra) still holds good and that if the punishment order shows that "the mandate of this statutory provision was borne in mind by the disciplinary authority", it would be sufficient

compliance with the provisions of Rule 8(a) or 10 of the Delhi Police Rules.

8. What would be the "grave misconduct" has not been indicated anywhere in the Delhi Police Act or in the Delhi Police Rules. In **STATE OF U.P.** vs. **ASHOK KUMAR SINGH & ANR.**, (1996) 32 ATC 239 (SC), the Supreme Court came to the conclusion that absenting himself from duty without leave on several occasions by a police officer would amount to grave misconduct on his part. (Emphasis given). The Supreme Court held :

> "We are clearly of the opinion that the High Court has 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 first respondent was a police constable and was serving in a disciplined force demanding strict adherence to the rules and procedures more than any other department. Having noticed the fact that the first respondent has absented himself from duty without leave on several occasions, we are unable to 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 this case, there was no justification for the High Court to interfere with the punishment holding that "the punishment does not commensurate with the gravity of the charge especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out." (Emphasis supplied).

The gravity of misconduct may also be indicated by the procedure followed in a departmental enquiry. For "major punishments" authorised under Rule 5 of the Delhi Police Rules, special procedure is prescribed under Rule 16. As per classification under Rule 6, "Dismissal", "Removal from service" and "Reduction in rank for a specified period" are "major punishments"

varying in degree of their intensity. Rule 10 of the Delhi Police Rules only "constricts the discretion which a disciplinary authority otherwise possesses" as held by the Supreme Court in SLP against **DALIP SINGH's** case (supra), in so far as awarding the major punishment of extreme intensity like dismissal or removal from service in certain cases is concerned. "Grave" otherwise means "weighty, important; requiring serious thought" or "Highly serious" as per the Shorter Oxford English Dictionary. It means, "Solemn, serious, important; momentous; critical or threatening" according to the Lexicon Webster Dictionary. In the context of these Dictionary meanings and the aforesaid decision of the Supreme Court in **ASHOK KUMAR SINGH**; isolated acts with no criminal liability or penal consequences, such as absence from duty without leave for a short duration on one or two occasions, may not constitute "grave misconduct" under Rule 8(a) of the Delhi Police Rules, rendering an officer unfit for police service; but such repeated or "continued misconduct indicating incorrigibility and complete unfitness for police service" may be sufficient to justify the punishment of dismissal from service. It does not mean that even in cases of misconduct based on allegations, which may expose the officer to criminal offence involving moral turpitude like that of bribery, theft or extortion, the order of dismissal from service may not be justified in violation of Rule 10. In such cases, "continued misconduct indicating incorrigibility" etc. mentioned in Rule 10 may not be relevant or required to be kept in mind by the disciplinary authority while passing the order of punishment.

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9. **ASHOK KUMAR SINGH's** case (supra) was a case under the U.P. Police Regulations and the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. These Regulations and Rules were obtained by us from Allahabad Bench of the Tribunal. It may be conceded that there are no such provisions in U.P. Rules as are in Rules 8(a) and 10 of the Delhi Police Rules and, therefore, the decision of the Supreme Court in **ASHOK KUMAR SINGH's** case may not be an authority on the necessity or otherwise of recording a finding, or indicating in the punishment order "complete unfitness" of the officer for police service, but must be an authority to explain if absenting himself from duty without leave on several occasions would amount to "grave misconduct". (Emphasis given). In this background if we look into the decisions of the Punjab & Haryana and Delhi High Courts in **PRAKASH CHAND** and **SUKHBIR SINGH's** cases (supra), it will be seen that in the first case, single instance of absence from duty from 20.7.1977 to 16.9.1977 and in the second case, temporary misappropriation of a utensil from a mess were held to be grave misconducts by the disciplinary authorities and accordingly the police officers were dismissed from service. The Punjab & Haryana High Court upheld the finding of the trial Court that the act did not amount to grave misconduct and the Delhi High Court quashed the punishment order on the same basis. Both the cases are, thus, quite distinguishable.

10. Shri M. K. Gupta, learned counsel for the applicant in O.A. No.1019/95 at Sl. No.3 cited several

Supreme Court decisions on Articles 141 and 142 of the Constitution to submit that the decisions of the Supreme Court are binding precedents. The proposition is not disputed and, therefore, it does not appear necessary to mention those cases cited by him or to discuss them at any length.

11. As a result of the discussions aforesaid, our answers to the questions before the Full Bench are as follows :

(i) The disciplinary authority is not required to record a specific finding that the delinquent official is guilty of grave misconduct rendering him unfit for police service before passing the punishment of dismissal or removal from service in terms of Rule 8(a) of the Delhi Police Rules. However, the order must indicate that the mandate of this statutoty provision was borne in mind by the disciplinary authority while passing the order of dismissal or removal from service.

(ii) Rule 8(a), or the decision of the Supreme Court in **ASHOK KUMAR SINGH's** case (supra) does not lay down that any unauthorised absence from duty of an official in police force automatically amounts to grave misconduct rendering him unfit for police service, or for that reason, the punishment of dismissal or removal from service is justified. Isolated one or two acts of unauthorised absence from duty for short durations may not amount to grave misconduct. The misconduct of unauthorised absence must be "continued misconduct indicating incorrigibility and complete unfitness for police

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service" as provided in Rule 10, or such absence must be on several occasions, as held by the Supreme Court in **ASHOK KUMAR SINGH's** case (supra), for holding unauthorised absence of a delinquent officer to be "grave misconduct" for purposes of inflicting the punishment of dismissal or removal from service.

(iii) Generally speaking, if the punishment order of dismissal from service does not indicate "continued misconduct indicating incorrigibility and complete unfitness for police service" on the basis of the past service record of the delinquent officer, the punishment of dismissal or removal from service may be converted into a punishment of reduction in rank for a specified time as provided in Rule 10, but there may be exceptions like cases of Constables where no reduction in rank is possible, or cases of misconduct based on allegations creating criminal liability involving moral turpitude.

12. Ordinarily after answering the questions before the Full Bench, we would have sent back all the aforesaid O.As to the D.B. for further hearing and disposal in accordance with law, but in view of the fact that six out of 19 cases are pending since 1992, one since 1993, four since 1994, three since 1995, three since 1996 and two since 1997 and that no other ground, except that of violation of Rules 8(a) and 10 of the Delhi Police Rules, we propose to dispose them all finally on merits, excluding O.A. No.1019/95 at Sl. No.3, where the learned counsel for the applicant had desired to urge additional grounds before the D.B.

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13. We will now take up all similar cases simultaneously and others one by one and record our findings and conclusions against them in the following sub-paragraphs :

(1) O.A. Nos.139/92 (S.No.1), 1322/92 (S.No.2), 1373/96 (S.No.4), 1580/96 (S.No.5), 2442/93 (S.No.6), 1823/94 (S.No.8), 2699/97 (S.No.9), 1032/95 (S.No.10), 1651/94 (S.No.13), 711/95 (S.No.14), 3258/92 (S.No.15), 2974/92 (S.No.17) :

The applicants in all these O.As were Constables, except the applicant in O.A. No.1580/96 at S.No.5, who was a Constable (Driver) in Delhi Police. They were all dismissed from service on the ground of unauthorised absence during various periods after due departmental enquiries. The impugned orders of punishment would show that the unauthorised absence of all these Constables were on several occasions and they were, therefore, found to be unfit for police service. Continued misconduct indicating incorrigibility and complete unfitness for police service is also reflected in the impugned orders. Even otherwise the applicants being Constables could not be reduced to any lower rank under Rule 10 because they were holding the lowest rank in Delhi Police and, therefore, Rule 10 was not applicable in their cases.

Our conclusion :

The impugned orders of punishment in the said O.As call for no interference.

(2) O.A. No.1019/95 (S.No.3) :

The applicant was a Police Constable in Delhi Police. He was removed from service on the ground of unauthorised absence on 5 occasions. The total period

of absence was 344 days, 85 hours and 10 minutes. The impugned order of punishment does indicate that the misconduct was grave in nature and that the applicant was unfit for police service. He being the holder of lowest rank in police service, could also not be reverted to any further lower rank and, therefore, Rule 10 of Delhi Police Rules was also not applicable to his case.

Apart from the common ground of violation of Rules 8(a) and 10 of the Delhi Police Rules taken in all other cases, the learned counsel for the applicant wanted to urge additional grounds in support of the application. Under the circumstances, we are of the view that this case must go back to the D.B. for disposal in accordance with law after hearing the learned counsel for the applicant on additional grounds of attack.

Our conclusion :

The case may be sent back to the D.B. for disposal in accordance with law after hearing the learned counsel for the applicant on additional grounds of attack.

(3) O.A. No.1199/94 (S.No.7) :

The applicant was a Constable. He died during the pendency of the O.A. His legal representatives have been brought on record, but according to the Full Bench decision of Mumbai Bench of this Tribunal in **SMT. VIDHATA** vs. **UNION OF INDIA** (O.A. No.159/93, dated 30.4.1998), legal representatives cannot be allowed to continue the application. However, as this Full Bench

decision is subject matter of challenge before the Mumbai High Court in a pending writ petition, we are not inclined to dismiss this application on the basis of the said Full Bench decision of Mumbai Bench of this Tribunal. Accordingly this O.A. is also decided on merits.

In this case also unauthorised absence of the deceased applicant was on several occasions. The impugned order indicates that the misconduct was grave in nature and he was unfit for police service. Accordingly the order of dismissal from service passed against him calls for no interference.

Our conclusion :

Calls for no interference.

(4) O.A. Nos.16/96 (S.No.11) & 3267/92 (S.NO.18) :

Applicant in O.A. No.16/96 was Head Constable whereas the applicant in O.A. No.3267/92 was Sub Inspector in Delhi Police. As they could be subjected to the punishment of reduction in rank, Rule 10 of the Delhi Police Rules would be applicable in their cases. In this background when we looked into the impugned orders of punishment of dismissal from service on the ground of unauthorised absence, we found that in both the cases, the impugned orders indicated that the applicants were guilty of continued misconduct indicating incorrigibility and complete unfitness for police service. Accordingly the punishments of dismissal from service call for no interference.

Our conclusion :

Call for no interference.

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(5) O.A. Nos.510/97 (S.No.12) & 2682/92 (S.No.19) :

The applicant in O.A. No.510/97 was Asstt. Sub Inspector in Delhi Police who was chargesheeted for extorting 16 notes worth 8000 Riyals from one Naseem Ahmed on 5.1.1995, at I.G.I. Airport. Misconduct was found proved. The allegations made against him also constituted an offence of extortion involving moral turpitude, punishable under Section 384 of the Indian Penal Code. Under these special circumstances, the punishment of dismissal from service was justified.

Similarly the applicant in O.A. No.2682/92 was a Constable who was found guilty of extorting a sum of Rs.400/- from one Jai Prakash on 5.6.1990. For reasons similar to those given hereinabove, the punishment of dismissal from service calls for no interference.

Our conclusion :

Call for no interference.

(6) O.A. No.1779/94 (S.No.16) :

Applicant was chargesheeted for the misconduct of mischief, refusal to perform Govt. duties, rumour-mongering, spreading disaffection and indiscipline among the rank and file of Batallion, because he was dissatisfied with his posting to general duties. The misconduct was found to be very serious in nature and the retention of the applicant in police service was held to be highly detrimental to the interest of overall discipline. The impugned order of punishment of dismissal from service indicates that the misconduct was grave in nature and the applicant was unfit for police service. The requirement of Rule

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8(a) of the Delhi Police Rules was, thus, fulfilled and, therefore, the punishment of dismissal from service calls for no interference.

Our conclusion :

Calls for no interference.

14. In the final analysis, we have reached to the following conclusions :

(i) Our answers to the questions referred are as mentioned in paragraph 11 of this order.

(ii) For the reasons mentioned in paragraph 13(2) of this order, **O.A. No.1019/95** is sent back to the D.B. for further hearing and disposal of the case in accordance with law after hearing the learned counsel for the applicant on additional grounds of attack sought to be urged.

(iii) All other cases mentioned in paragraph 13(1) and (3)to(6) of this order are dismissed, but without any order as to costs.

(K. M. Agarwal)
Chairman

(N. Sahu)
Member (A)

28/7/98

(S. P. Biswas)
Member (A)

PRITAM SINGH
Court Officer
Central Administrative Tribunal
Principal Bench
Faridkot House, New Delhi