

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1529/93

New Delhi, this the 14th day of July, 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)
Hon'ble Mr. R.K. Ahooja, Member (A)

Ex-Constable Jal Singh,
No. 652/SW, 633-P,
S/o Shri Net Ram,
R/o Village Ghummanhera,
Police Station Najafgarh,
Post Office Ghummanhera,
New Delhi.

.....Applicant

(By Advocate: None)

Versus

1. Commissioner of Police, Delhi,
Delhi Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi- 110 002.
2. Additional Commissioner of Police (Operations),
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi- 110 002.
3. Deputy Commissioner of Police,
Indira Gandhi International Airport,
Delhi Police,
Delhi.
4. Shri Gurbax Singh,
Inspector/Enquiry Officer,
Police Station PAP Lines,
Delhi Police,
Delhi.

...Respondents.

(HC Sawant Ram, Departmental
representative)

ORDER (Oral)

By Hon'ble Mr. R.K. Ahooja, Member (A)

None present for the applicant even on the
second call. Departmental representative submits that
learned counsel for the respondents has not come today.

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In terms of the CAT Procedure Rules, since this case is pending from 1993, we are disposing it off on merits on the basis of the available pleadings on record.

2. The applicant, recruited as a Constable in Delhi Police was proceeded against on the allegation of unauthorised absence from duty w.e.f. 23.4.91 to 26.7.91. He had been advised 14 day's medical rest by a doctor w.e.f. 26.3.91 to 8.4.91. He was due back from medical rest on 9.4.91 according to the respondents but he failed to do so. However, an information was received on telephone from his brother regarding extension of medical rest for a period of 15 days more which was recorded vide D.D. No. 16 dated 9.4.91 and D.D. No. 14PAP, Lines dated 23.4.91. Thereafter neither any information was received nor did the applicant report back on duty till 26.7.91. It was thus found that he was absent for a period of 2 months, 18 days, 6 hours and 25 minutes in an unauthorised manner. The charge of unauthorised absence was proved against the applicant after a D.E. vide order dated 17.7.92. The appeal filed by the applicant was also dismissed by the order dated 1.2.93. Aggrieved by these two orders the applicant has come to this Tribunal.

3. The main contention of the applicant is that since he had been granted medical rest for 14 days and was also permitted to go home for rest his subsequent absence on medical grounds, supported with medical certificates, cannot be considered as unauthorised and ~~useful~~ useful. He submits that he had asked his brother to inform about his continued sickness to the authorities twice, but his brother failed to convey the subsequent requests for grant of leave. Secondly, the applicant

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contends that the enquiry was not properly conducted against him and he was assured that he will not be punished. He also submits that even if the charge against him is taken to be established, yet considering the circumstances in which he was forced to remain absent, the punishment of dismissal from service imposed on him is disproportionate and harsh.

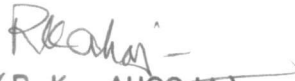
4. It is admitted by the respondents that the applicant had initially proceeded on medical leave for 15 days. It is also admitted that on two occasions the brother of the applicant had conveyed a request of the applicant for 15 days on each occasion. However, the applicant himself concedes that his brother failed to convey his subsequent request for extension of leave. In these circumstances it cannot be said that there is no evidence for the Enquiry Officer for his finding of unauthorised absence after 23.4.91. The applicant's claim is that he had submitted his medical certificates during this period. These however have not been accepted by the respondents. The contention of the applicant is that they should have referred his case for a second medical opinion. However this contention is not supported by any rules or instructions of the respondent-department. The allegation of applicant that he was misled by the E.O. cannot be considered, and this Tribunal cannot come to any conclusion on the basis that he had been promised exoneration or no punishment and was thus misguided.

5. In so far as the question of disproportionate punishment is concerned, the applicant was absent from duty for a period of two months. Absence of a policeman from duty even for a day cannot be

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considered as a minor offence. In the case of the applicant the period of unauthorised absence was of over two months.

6. In the result finding no merit in the OA, the same is dismissed. There shall be no order as to costs.


(R.K. AHOOJA)
Member(A)


(V. RAJAGOPALA REDDY)
Vice-Chairman (J)

cc.