

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A./61/3533/2020 (SWP.No.2573/2020)

This the 15th day of December, 2020

**HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
HON'BLE MR. MOHD JAMSHED, MEMBER (A)**

Randhir Singh, Ct. No. 172I/U aged 25 years, S/o Parsidh Singh, R/o
Shama Chak, Tehsil-Samba, Distt. Jammu

.....Applicant
(Advocate: Mr. Nishant Shukla, vice Mr. Rahul Pant)

Versus

1. State of Jammu and Kashmir, through Principal Secretary to Govt, Department of Home, Civil Sectt. Srinagar/Jammu.
2. Director General of Police, Jammu and Kashmir State, Srinagar/Jammu.
3. Sr. Superintendent of Police, Distt. Police Headquarters, Udhampur.

.....Respondents
(Advocate:- Mr. Sudesh Magotra, 1d Deputy Advocate General)



O R D E R
[O R A L]

Justice L. Narasimha Reddy, Chairman: -

The applicant was appointed as Constable in Jammu & Kashmir Police on compassionate grounds on 26.11.1998. He was transferred to the District Udhampur in 1999 in the P.S. Katra. It is stated that the applicant remained absent and punished on a number occasions. The Disciplinary Authority passed an order dated 31.12.2001 removing the applicant from service. The regular inquiry was dispensed with by invoking Rule 187 of J & K Police Manual.

2. The applicant contends that the order of removal suffers from various legal infirmities. He further contends that the respondents did not conduct inquiry thereafter. It is also stated that he had to remain absent on certain occasions due to serious ailment, and that there was no justification or basis for removing him from service.

3. The respondents filed a reply. It is stated that the applicant was irregular and indiscipline ever since he is appointed and within a span of 3 years, he remained absent for 150 days in the year 2001 alone. It is further stated that the applicant was imposed the punishment of Censure on three

occasions in the year 2000, and punishment of forfeiture of one increment was imposed once in 2000 and twice in 2001, and the period of absence was treated as dies non on 09.10.2001.

4. Various grounds urged by the applicant are denied by the respondents.

5. The Writ Petition has since been transferred to this Tribunal in view of reorganization of the State of Jammu and Kashmir and re-numbered as TA.No.3533/2020.

6. We heard Mr. Nishant Shukla, vice Mr. Rahul Pant, learned counsel for the Applicant and Mr. Sudesh Magotra, 1d Deputy Advocate General, for the respondents.

7. Hardly, we come across such serious acts of indiscipline and irregularities on the part of the Constable, that too who was appointed on compassionate grounds. The very basis for an appointing an individual on compassionate grounds is to ensure that the family is not exposed to penury on account of the death of earning member of the family. The candidates are not subjected to any selection process. Instead of being grateful and thankful to the administration, for proving an opportunity for such appointment, the applicant started behaving in highly indiscipline manner in the inception itself. The number of punishments that were imposed immediately after appointment discloses the extent of indiscipline.

8. In the year 2001, he remained absent for 150 days, which nearly half of the time. In a disciplined establishment like Police, where hardly any leave are granted to the members with the sole object to making their service available to the society uninterruptedly, absence for such a long period that too without applying leave cannot be countenanced in whatever circumstances.

9. The applicant has to his credit more than half a dozen punishments within a brief span of service. The principal ground urged by the applicant is that no inquiry was conducted. The respondents have invoked Rule 187 of J & K Police Manual. That enables the administration to dispense with the removal of a Constable, if he is found to be indiscipline or not worthy within 3 years from the date of entering into service.

10. Though across the Bar, it is argued that the impugned order is passed few days after lapse of 3 years, this was not to be any issue in the Writ Petition. Therefore, the respondents do not have an occasion to deal with it specifically. Even otherwise, the applicant was issued an order of appointment on 2611.2008. Added to that, the exercise for such removal of the applicant began much in advance and the respondents gave him full

opportunity to join duty. It is represented that in response to a notice issued in October 2001, the applicant appeared on 07.11.2001 before 3rd respondent and by stating that he is not interested in the job, he disappeared on the same day. The cumulative effect of all these factors is that the respondents had no alternative except to invoke Rule 187 and pass the impugned order.

11. We do not find any merit in the TA and the same is accordingly dismissed. There shall be no order as to costs.

**(MOHD JAMSHED)
MEMBER (A)**

**(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN**

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