

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**OA-617/2000**

**Reserved on : 16.11.2017.**

**Pronounced on : 12.12.2017.**

**Hon'ble Mr. Raj Vir Sharma, Member (J)**

**Hon'ble Ms. Praveen Mahajan, Member (A)**

Ex. Constable

Rajbir Singh No. 10765/DAP(591/A),

Son of Shri Tek Ram,

R/o Village Nirthan,

District : Sonapat (Haryana).

..... Applicant

(through Sh. Nilansh Gaur, Advocate)

Versus

1. Union of India through  
Lt. Governor,  
National Capital Territory of Delhi,  
Delhi Administration,  
Delhi.
2. Commissioner of Police, Delhi  
Police Headquarters,  
I.P. Estate, New Delhi.
3. Senior Commissioner of Police/A&T  
of Delhi Police,  
Police Headquarter,  
I.P. Estate, New Delhi.
4. Deputy Commissioner of Police,  
9<sup>th</sup> Bn. D.A.P., Delhi.

.... Respondents

(through Sh. Vijay Pandita, Advocate)

**O R D E R**

**Ms. Praveen Mahajan, Member (A)**

The applicant has approached the Tribunal seeking the

following relief:-

- “(a) Call for the records of the case and quash/set-aside the order dated 29.12.94, the Charge, the Enquiry Report dated 30-3-1989, the Order of Appellate Authority dated 11-8-95, the Order of Revisionary Authority dated 10-5-96 and order rejecting Memorial dated 3-3-99.
- (b) To grant all consequential relevant benefits to the applicant such as Seniority, Promotion and monetary benefits etc.
- (c) Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. Brief facts of the case are that the applicant joined Delhi Police on 04.09.1978 in the rank of Constable. On 01.02.1988, he was sent from 9<sup>th</sup> Bn. D.A.P. for Advance Mob Control Course commencing from 03.02.1988 to 4<sup>th</sup> Bn. D.A.P. After joining the said course on 01.02.1988, he became ill and informed his senior officers accordingly. He states that his superiors got recorded the D.D. Entry No. 10 dated 02.02.1988 for outdoor-patient and sent the applicant for treatment to the C.G.H.S. Dispensary situated inside the premises. The CMO examined the applicant and prescribed medicines as well as bed rest for him, for a week. This fact was again informed by the applicant to his senior officers along with the prescription of the CMO.

3. The applicant further states that the applicant was not sent for availing medical rest because of instructions, that no police officer is allowed medical rest in the barracks of Police Department. The

applicant remained on continued medical rest till 29.03.1988 as prescribed by CMO, CGHS Dispensary. His condition became serious and he could not even walk properly due to which he was unable to attend the police line. Hence, he was compelled to take proper rest by way of going to his village where he continued treatment through one MBBS registered doctor. It is stated that the doctor diagnosed that the applicant had been suffering from Jaundice and Typhoid. He remained under his treatment from 30.03.1988 to 18.12.1988. Thus, the absence of the applicant was neither intentional nor mala fide but was due to circumstances beyond his control.

4. On 06.10.1988, a departmental enquiry was ordered against the applicant with the allegation that he was absent since 01.02.1988 while undergoing his course in 4<sup>th</sup> Bn. D.A.P. It was also alleged therein that despite absentee notices sent to his home address, he had neither joined duty nor replied to the same. He was charged with willfully and unauthorisedly absenting himself from government duties.

5. The applicant avers that during the departmental enquiry, the Enquiry Officer (EO) examined the doctor, who had diagnosed the applicant as suffering from Jaundice and Typhoid. The said doctor supported the above version of the applicant. The EO examined 3 PWs ex-parte in support of the allegations and recorded their

statements. The EO also examined other relevant witnesses and recorded their statements. Finally, without receiving the defence statement of the applicant the EO submitted his finding in which he fully proved the charges levelled against the applicant and recommended punishment under Section-21 of Delhi Police Act, 1978.

6. Respondent No.4 issued show cause notice of dismissal along with the copy of the findings of the EO to the applicant. The applicant submitted his representation against the show cause notice and findings, which was rejected and a final order dismissing the applicant from service was issued on 14.05.1989. An appeal preferred against the order of dismissal to the Appellate Authority (AA) was also rejected as also the revision petition submitted to the Revisionary Authority.

7. The applicant preferred OA-1218/1990 before this Bench of Central Administrative Tribunal, which was disposed of on 20.09.1994 by quashing the order of dismissal. Directions were issued to the respondents to act in accordance with Rule-8(a) and 10 of Delhi Police (Punishment & Appeal) Rules, 1980. It was also held that the punishment of dismissal was extreme and quantum of punishment should be reconsidered.

8. In compliance thereof, the Disciplinary Authority (DA) passed orders on 29.12.1994 by stating that:-

"In pursuance of the decision of Hon'ble Central Administrative Tribunal, New Delhi dated 20.9.94 in O.A.No. 1218/90 – Rajbir Singh Vs. U.O.I. and PHQ's memo No. 30521/CR-I dt. 30.11.1994, Ex Ct. Rajbir Singh No. 10765/DAP who was dismissed from the service vide this office order No. 1278-1330/HAP/IX BN. DAP. dt. 14.6.89 is hereby reinstated in service w.e.f. 20.9.94 i.e. the date of decision of Hon'ble C.A.T.

His eight years qualifying service is forfeited permanently. The absence period from 3.2.88 to 19.12.88 is treated as Leave Without Pay.

"The pay of Ct. Rajbir Singh No. 10765/DAP is reduced by three stages from Rs.1010/- to Rs.950/- in time scale of pay Rs.950-20-1150-EB-25-1400 for a period of eight years w.e.f. the date of issue of this order. He will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his further increments of pay".

The period from the date of reinstatement i.e. 20.9.94 to the date of his joining duty will be treated as Leave of the kind due. The period from dismissal to reinstatement is treated as dies-non."

9. The applicant preferred a revision against the order of the DA to the Addl. Commissioner of Police, who, disagreeing with the punishment order dated 29.12.1994, issued a show cause notice to enhance the punishment of removal, to that of dismissal from service.

10. The applicant submitted his representation against the show cause notice, of removal from service, to respondent No.3, who confirmed the proposed punishment through his orders dated 11.08.1995. Respondent No.3 has further added that the absence period i.e. from 03.02.1988 to 19.12.1988, the period from dismissal to

re-instatement, and, the period from the date of re-instatement i.e. 20.09.1994 till the date of his joining duty, be treated in the same manner as already decided by the DA vide his order dated 29.12.1994. In the said order, the respondent No.4 has treated the absence period from 03.02.1988 to 19.12.1988 as Leave Without Pay and the period from the date of reinstatement i.e. 20.09.1994 to the date of his joining duty, as Leave of Kind due and the period from dismissal to reinstatement as dies-non. The applicant filed a revision against the order of respondent No.3 as well as a Memorial to the Lt. Governor of Delhi.

11. In their counter, the respondents state that the applicant joined Delhi Police on 04.09.1978. His services were terminated by Deputy Commissioner of Police on 28.06.1979 due to his indifferent and unsatisfactory service record. Against this termination order, his representation to Commissioner of Police was accepted and he was reinstated in service on 17.11.1979. The respondents further submit that the applicant, after joining the course in 4<sup>th</sup> Bn. DAP on 01.02.1988 absented himself w.e.f. 03.02.1988 and after that, he did not turn up for the said course. Seven absentee notices were issued to him and sent at his home address with the direction to resume his duty at once but he neither joined his duty nor sent any reply in spite of having received the above said notices.

12. Accordingly, a regular departmental enquiry was initiated against him vide order dated 06.10.1988. The applicant did not join the disciplinary proceedings despite the notices having been served upon him thrice, through a special messenger at his native village in Haryana. When the Deputy Commissioner of Police ordered the disciplinary enquiry to be conducted ex-parte vide order dated 13.12.1988, the applicant resumed his duty on 19.12.1988 after having absented himself unauthorisedly and willfully for a period of about 11 months.

13. After examining all the PWs, the EO submitted his findings holding the applicant guilty of the charge levelled against him. The respondents state that the applicant is a habitual absentee and various warnings and censure etc. have had no effect on him. Prior to his above said period of absence, he had absented himself unauthorisedly on 09 occasions for a total period of 74 days, 10 hours and 30 minutes. The applicant had also been awarded adverse annual confidential report by ACP/ Punjabi Bagh for the period from 26.07.1986 to 20.11.1986 wherein it had been mentioned that his conduct was not good, he was a habitual absentee and often sent complaints against his senior officers.

14. In the rejoinder, the applicant states that previous record of absence of the applicant was not made a part of the charge and

hence the same cannot be taken cognizance of, for the purpose of counter reply filed by the respondents. He also adds that the order rejecting the revision and memorial were never served on him.

15. We have carefully perused the record and considered the rival contentions of both sides.

16. Even assuming that the applicant fell ill and felt that he needed rest at his village, he should have informed his seniors before proceeding on leave to his village. Having done so without permission, he should have responded to the notices sent to him rather than maintain a stony silence for a period of almost one year. Such insubordination, in our view, deserves no indulgence, either from the respondents or from the Tribunal.

17. A correct and disciplined behaviour is the legitimate expectation of the Government from any Government employee. Discipline is the backbone of any service – especially the Police Force which has been vested with vast powers and has the onerous responsibility of maintaining law and order in the country. But if the enforcer himself is indisciplined, then can a common man expect redressal of his grievances from such quarters? The question here is much larger than the punishment awarded to an individual. It is more to do with wrong message it might send to other delinquents, if such behaviour goes unpunished. The effort of the respondents in



imposing punishment on an insubordinate official/employee is to stop the virus of indiscipline from spreading and infecting the entire force, which might make it impossible for them to deliver and implement the mandate of ensuring law and order in public, judiciously.

18. In view of the facts and circumstances of the case, we find no reason to interfere with the impugned order. The O.A. is accordingly dismissed. No costs.

**(Praveen Mahajan)**  
**Member (A)**

**(Raj Vir Sharma)**  
**Member (J)**

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