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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.956 of 2003

New Delhi, this the 10th day of April, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. MALHOTRA, MEMBER (A)

Ex. Const. Bhagmal No.4776/DAP
S/o Shri Karan Singh
R/o Vill & PO : Shafi Nagar, Khondai,
PS : Ahar District Bulandshar (U.P.).

....Applicant
(By Advocate : Shri Sama Singh)

Versus

1. Govt. of N.C.T. of Delhi
Through its Chief Secretary,
Delhi Secretariat, I.P. Estate,
New Delhi-110002.
2. Commissioner of Police,
Delhi Police Headquarters, MSO Building,
IP Estate, New Delhi -110002.
3. Additional Commissioner of Police
(Armed Police)
New Police Lines, Kingsway Camp,
Delhi-110009.
4. Deputy Commissioner of Police,
VIII BN DAP Malviya Nagar,
New Delhi.

....Respondents

ORDER (ORAL)

BY SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN :

The charge against the applicant reads as under:-

"I, O.P. Sagar Insp/EO, 8th Bn.
DAP P.T.S. Malviya Nagar, New Delhi charge
you Const. Bhagmal No.9776/DAP (PIS
No.28871011) that while posted in VIII Bn.
You proceeded on 2 days casual leave
w.e.f.2.6.2000 with permission to avail
holiday dated 4.6.2000 vide DD No.40 dated
1.6.2000. You were due back on 5.6.2000.
Instead of joining your duty on 5.6.2000,
you informed over telephone vide DD No.44
dated 5.6.2000 that your mother admitted in
a Hospital at Bulandshahr (UP), had been
discharged that day and that you had to
take her back to home. Further you
requested for one day CL for 5.6.2000.
Accordingly RI/8th Bn. DAP sanctioned one



day CL to you. You were due back on 6.6.2000, but you did not turn-up on due date and time. As such you were marked absent vide DD No.44 dated 6.6.2000. Three absentee notices were sent to you at your residence, i.e., Village Shafi Nagar, P.S. Khandoi, P.S. Ahar, Tehsil Siyana, Distt. Bulandshahr (UP) vide this Office Memo No.17131-34/AS P/8th Bn. DAP dated 30.06.2000. No.19332-34/ASIP/8th Bn. DAP dated 20.07.2000 and No.22012-14/ASIP/8th Bn. DAP dated 10.08.2000 with a copy of Civil Surgeon, Civil Hospital, Bulandshahr (UP) and SSP Bulandshahr (UP) with the direction to resume duty at once. In case of your sickness, you were also directed to report to Civil Surgeon, Civil Hospital, Bulandshahr (UP) for your medical examination. You joined your duty on 7.9.2000 vide DD No.11 after absenting yourself for a period of 92 days 20 hours and 30 minutes unauthorisedly and willfully without any intimation and prior permission of the competent authority in contravention of SO No.111 and CCS (Leave) Rules - 1972. At present you are still running absent since 11.9.2000 vide DD No.36. On perusal of your past record it is revealed that you absented yourself on 20 different occasions for which you were awarded minor/major punishments, but you failed to mend yourself and you are still in the habit of absenting yourself from duty."

2. The report of the enquiry officer was adverse to the applicant. Resultantly, the disciplinary authority passed an order that he had abstained unauthorisedly and keeping in view the past conduct, he was removed from service. The appeal of the applicant had been dismissed by the concerned authority on 8.11.2001.

3. Learned counsel for the applicant contends that the applicant had to look after the parents, otherwise it would have been unbecoming of a Govt. servant, and in that backdrop, he was absent from the duties and, therefore, the absence from the duties

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does not consequent to the alleged dereliction of duties.

4. We do not dispute the fact that a Govt. servant is to look after his parents also but it is the corresponding duty. The Govt. service cannot be lost sight off and it was not the first incident but earlier on 20 occasions, he was absent, and major and minor penalty have been imposed. Once again, he absented himself for more than three months and in this backdrop, the said punishment in a discipline force cannot be taken before assessing.

5. Resultantly, in the absence of any other pleas, the present application is dismissed in limine.


(S.K. Malhotra)
Member (A)


(V.S. Aggarwal)
Chairman

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