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Central Administrative Tribunal, Principal Bench

Original Application No.1166 of 2003

New Delhi, this the 4th day of December, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

Const. Rohtash
PIS No. 28890803
R/o Vill. Meenapur, P.O. Bamboli
PS MIA, Dist. Alwar, Rajasthan

.... Applicant

(By Advocate: Shri Anil Singal)

Versus

1. GNCT through
Commissioner of Police,
Police Head Quarters,
I.P. Estate, New Delhi.
2. Addl. Commissioner of Police,
(Security), PHQ,
I.P. Estate, New Delhi
3. Shri P. Dass,
Then D.C.P. (10th Bn. DAP)
Presently DCP 3rd Bn. DAP
Vikas Puri, New Delhi.

.... Respondents

(By Advocate: Shri Harvir Singh)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant assails the order passed by the disciplinary authority dated 18.7.2002 and of the appellate authority dated 5.3.2003. The disciplinary authority, acting on the report of the enquiry officer and after recording reasons, imposed a penalty of removal from service. The applicant preferred an appeal which was rejected.

2. We are not going into any other plea raised by the applicant. This is for the reason that during the course of submissions, it was pointed that the charge had been framed against the applicant copy of which is Annexure

LS Ag

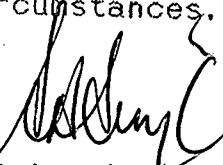
A-4. The past record of the applicant was not a part of the charge. The appellate authority, while dismissing the appeal, recorded:

"Perusal of the previous service record of the appellant also proves that he is incorrigible type of person and had absented himself on several occasions but he could not mend himself despite award of major punishments etc."

3. Rule 16(xi) of Delhi Police (Punishment and Appeal) Rules specifically prescribes that when past record has to be considered, it must form part of the charge.

4. Unfortunately, the appellate authority therefore fell into an error in considering the past record while dismissing the appeal.

5. On this short ground, therefore, we quash the order passed by the appellate authority and direct that it would pass a fresh order after considering all the facts and circumstances. O.A. is disposed of.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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