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CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH

O.A. NO. 2726/2003

New Delhi, this the 26<sup>th</sup> day of May, 2004

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

Bhanwar Singh  
s/o Sh. Chuna Ram  
r/o Bauji Ki Dhani  
P.O. Batra Nau  
P.S. Laxman Garh  
District Sikar  
Rajasthan. ... Applicant

(By Advocate: Sh. Shyam Babu)

Versus

1. Govt. of NCT of Delhi  
through its Chief Secretary  
Players Building  
New Delhi.
2. Jt. Commissioner of Police, [Operations]  
Police Headquarters  
I.P. Estate  
New Delhi. ... Respondents

(By Advocate: Ms. Renu George)

ORDER

Justice V.S. Aggarwal:-

Applicant (Bhanwar Singh) faced disciplinary proceedings pertaining to his absence from duty. The disciplinary authority passed an order removing him from service which was upheld by the appellate authority after a regular departmental inquiry had been conducted. The appellate authority while removing the applicant, had recorded about his mental condition.

2. Aggrieved by the said orders, he had preferred OA 16/2002 which was decided on 11.11.2002. This Tribunal had set aside the order passed by the

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appellate authority and given the following directions:

"On our query the respondents were also unable to show any records showing about the medical condition of the applicant after he had been referred to Civil Surgeon, Rajpur Road, Hospital. If that was the case, then probably he would not have been represented properly during the departmental enquiry proceedings. Since there is observation and the appellate authority itself that during the hearing of the appeal that the applicant was not coherent and was not mentally alert, so the order of appellate authority has to be quashed and same has to be remanded back to the respondents. Hence, we hereby quash the impugned order after taking note of the fact that the mental condition of the applicant as opined by the civil surgeon, Rajpur road Hospital to whom the applicant was referred vide letter dated 15.12.2000 has not been discourse. The appeal may be decided within a period of 3 months from the date of receipt of the copy of this order, after taking note of the mental condition as per medical opinion given by the Rajpur Road Hospital. The applicant will be at liberty to approach this court, again, if he is still aggrieved. No costs."

3. When the matter was remitted back to the appellate authority, he recorded that the Medical Board had opined that applicant does not have any Psychiatric Symptoms but he was suffering from the Recurrent Depressive Disorder. The appellate authority took a lenient view and reduced the penalty from removal from service to forfeiture of three years, approved service permanently. The order reads:

"I have gone through the orders, the appeal, the material available on record and the opinion given by the Medical Board. He was also heard in O.R. on 10.1.2003. As per the opinion of Medical Board, the appellant does not have any PSYCHIATRIC SYMPTOMS. Though, he was suffering from RECURRENT DEPRESSIVE DISORDER, but unauthorised absence from duty for such a long period is the gravest form of misconduct in the

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disciplined force. He violated the Leave Rules, 1972 as well as S.O. No. 111. However, taking a lenient view against the appellant, the punishment of removal from service awarded to ex. Constable Bhanwar Singh, No. 2226/A is hereby reduced to that of forfeiture of his Three Years' approved service permanently."

4. Learned counsel for the applicant raised various pleas to assail the order passed in this regard. But we are not deeming it necessary to express anything in this regard because it was urged further that this Tribunal had already directed that the mental condition of the applicant should be looked into. The applicant was not mentally alert as has been noticed even by the appellate authority. Keeping in view these facts, probably the applicant could not be represented properly before the inquiry officer. Even now, it has been reported that he is suffering from Recurrent Depressive Disorder. The respondents' learned counsel had made available to us the medical examination report of the applicant which also indicated that he was suffering from Recurrent Depressive Disorder. Looking to the earlier orders passed by this Tribunal, it is apparent that the applicant could not defend himself properly because the record reveals that in fact he had not joined the disciplinary proceedings. The inescapable conclusion would be that at that very time he could not defend himself. Keeping in view the totality of the circumstances that reveal from the record, we hold that the impugned orders should be quashed and applicant should be given a fresh opportunity to

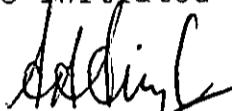
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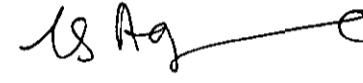
defend himself in the disciplinary proceedings from the stage notice to show cause was issued.

5. We make it clear that we are in no way expressing ourselves any opinion pertaining to dereliction of duty, if any, and absence from duty in disciplinary force.

6. For these reasons, we allow the present application and quash the impugned orders. It is directed that the disciplinary proceedings may be re-initiated from the stage referred to above.

  
(S.A. Singh)

Member (A)

  
(V.S. Aggarwal)

Chairman

/NSN/