

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: May 26, 2023

+ W.P.(C) 452/2019

SANT RAM

..... Petitioner

Through: Mr. K. Venkataraman and
Mr. Avinash, Advs.

versus

THE COMMISSIONER OF POLICE AND ANR.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel GNCTD (Services) with
Ms. Tania Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Palak Rohmetra,
Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. This petition challenges the order dated October 16, 2018 of the Central Administrative Tribunal in the Original Application being OA 4410/2017 whereby the Tribunal has dismissed the OA filed by the petitioner herein by stating in paragraphs 13 and 14 as under:

“13. The applicant was working in the Police Department where maintenance of discipline is of paramount importance. In the instant case, the applicant has not

mended his ways despite a major punishment imposed in 2003 and thereafter again he became unauthorisedly absent in 2008 which led to his dismissal in 2011.

14. It is the view of the Tribunal that appropriate consideration had already been extended in the case of applicant and the pleas of applicant do not sustain and present OA needs to be dismissed being devoid of merit.”

2. The claim of the petitioner before the Tribunal was for grant of compassionate allowance under Rule 14 of the CCS Pension Rules, 1972.

3. The petitioner, who was working as a Head Constable and had put in 29 years of service, was dismissed from service on April 27, 2011 on account of unauthorized absence for 233 days in four spells coupled with other instances of absence from October 2, 2007 to September 11, 2008. He filed an appeal against this punishment and the same was rejected by the appellate authority on January 6, 2012. He approached the Tribunal vide the Original Application being OA 1789/2012 against the punishment of dismissal. The OA was dismissed on July 28, 2016. Thereafter he made a representation in terms of Rule 41 of the CCS Pension Rules, 1972, for compassionate allowance. The said representation was rejected by the authorities on April 27, 2017.

4. The submission of Mr. Venkataraman, learned counsel appearing for the petitioner is even if not $\frac{2}{3}$ rd, this Court may consider granting $\frac{1}{3}$ rd of his salary as compassionate allowance. He submits that it is a case where the petitioner remained absence for medical reasons and a compassionate view be taken thereof.

5. Mr. Nitesh Kumar Singh, learned counsel appearing for the respondents has filed before us a chart showing the period of unauthorized absence of the petitioner since the year 1982. The said chart is reproduced as under:

WPC NO. 452/2019 - TITLED SANT RAM VS. CP, DELHI, REG. PREVIOUS ABSENT RECORD OF EX. HC (EXE.) SANT RAM, NO. 12/C (PIS NO. 28821567)

SL. No.	Date of Absent	Date of Arrival	Period of absence			Decision
			Days	Hours	Min.	
1.	12.10.1982	15.10.1982	02	23	10	3 days C.L.
2.	18.04.1983	28.04.1983	10	22	35	Leave Without Pay
3.	06.11.1983	06.11.1983	-	11	10	10 days P.D.
4.	15.12.1983	15.12.1983	-	09	45	10 days P.D.
5.	18.02.1985	18.02.1985	-	07	55	Warned & filled
6.	03.08.1988	07.08.1988	04	-	50	05 days E.L. & warned
7.	19.10.1988	20.10.1988	-	23	55	One day C.L.
8.	18.12.1988	19.12.1988	01	01	05	One day C.L.
9.	06.07.1989	27.07.1989	26	-	05	26 days E.L.
10.	16.06.1989	23.06.1989	07	10	33	Leave without pay
11.	12.08.1989	13.08.1989	-	22	10	
12.	19.05.1989	20.05.1989	-	23	25	
13.	08.02.1990	09.02.1990	-	23	-	One day C.L.
14.	30.10.1990	31.10.1990	-	16	20	10 days P.D.
15.	21.09.1990	21.09.1990	-	-	20	Warned and filled
16.	07.04.1990	13.04.1990	07	10	25	7 days E.L.
17.	14.04.1990	23.04.1990	09	-	40	Leave without pay
18.	06.12.1990	11.12.1990	06	-	-	Leave without pay
19.	10.12.1992	17.12.1992	07	10	25	7 days E.L.
20.	09.04.1994	10.04.1994	-	21	45	One day C.L.
21.	30.04.1995	01.05.1995	-	22	05	One day C.L.
22.	10.12.1994	22.12.1994	12	22	30	12 days E.L.
23.	09.05.1995	20.05.1995	10	23	-	10 days E.L.
24.	09.08.1995	17.08.1995	08	21	35	08 days Commuted leave
25.	14.03.1996	15.03.1996	-	16	-	One day C.L.
26.	21.11.1995	03.12.1995	11	18	15	Commuted leave & warned
27.	06.04.1996	10.04.1996	04	-	45	04 days C.L.
28.	24.10.1995	02.11.1995	08	16	10	9 days E.L.
29.	16.06.1996	17.06.1996	-	23	45	One day C.L.
30.	02.01.1996	25.02.1996	44	-	-	Censure & Leave without pay
31.	03.04.1997	20.04.1997	07	-	-	15 days E.L.
32.	30.04.1998	01.05.1998	-	21	45	One day C.L.
33.	13.11.1998	24.11.1998	10	19	15	89 days leave

34.	09.03.1998	31.03.1998	21	21	30	without pay
35.	11.05.1998	23.05.1998	11	23	35	
36.	16.06.1998	16.06.1998	-	02	45	
37.	17.06.1998	27.06.1998	09	22	20	
38.	15.07.1998	18.08.1998	33	23	15	
39.	18.06.1999	29.07.1999	86	20	50	Leave without pay
40.	11.08.1999	25.09.1999				
41.	04.10.1999	05.10.1999				
42.	27.12.1999	23.01.2000	27	05	45	Leave without pay
43.	03.02.2000	08.03.2000	34	05	10	Leave without pay
44.	29.09.2000	01.10.2000	01	22	-	02 days E.L.
45.	16.08.2000	08.09.2000	23	02	10	Leave without pay
46.	20.03.2000	22.03.2000	02	02	10	02 days E.L.
47.	21.11.2000	15.07.2001	268	-	-	Forfeiture two years approved service and absent period decided as not spent on duty.
48.	07.03.2004	08.03.2004	-	19	50	One day C.L.
49.	25.09.2005	25.09.2005	-	15	-	One day C.L.
50.	01.10.2005	05.10.2005	03	17	40	Leave of kind due
51.	24.12.2005	05.02.2006	42	23	-	No Work No Pay
52.	30.03.2006	30.03.2006	-	-	40	Filled
53.	15.05.2006	19.11.2006	197	22	30	No Work No Pay
54.	07.02.2007	08.02.2007	01	01	05	One day E.L.
55.	14.02.2007	17.02.2007	02	23	30	Leave of Kind Due
56.	02.03.2007	10.03.2007	08	-	05	
57.	21.05.2007	13.06.2007	22	23	45	No Work No Pay

6. From the perusal of the chart, it is clear that the unauthorized absence for which the petitioner was proceeded against and dismissed from service was not a solitary absence. In fact, we find that penalties have been imposed on the petitioner on three different occasions in the past.

7. Considering the totality of the circumstances, this Court is of the view the Tribunal is justified in dismissing the OA.

8. The petition is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MAY 26, 2023/jg

