

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18792 of 2015

=====

Sri Hari Krishna Das, PT Choukidar, Son of Ghurbigan Das, Resident of New Mainpura, Kharanja Road, Police Station- Danapur, District- Patna.

.... Petitioner/s

Versus

1. The Union of India represented through Director General of Medical Services, D.G.M.S. (B) 'L' Block, Army Head Quarter, New Delhi.
2. D.D.M.S. Head Quarters, M.B. Area (Med) Jabalpur, (M.P.).
3. M.B. (Medicals) Head Quarter Central Command Lucknow (U.P.).
4. The Commanding Officer, Military Hospital, Danapur Cantt., Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Dwivedi, Advocate

For the Respondent/s : Mr. S.D.Sanjay, Addl. S.G.

M.r. Rajesh Kumar Verma, CGC

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 19-05-2016

The order dated 13th April, 2015 passed by the Central Administrative Tribunal in O.A. No. 687 of 2010 is the subject matter of challenge in the present writ petition, whereby the challenge to the order of compulsory retirement of the petitioner on 19th March, 2004 and the order dated 30th July, 2010 passed by the appellate authority affirming the order of punishment, remained unsuccessful.

The petitioner was served with a charge-sheet on 24th October, 2003 for remaining absent unauthorizedly from 12th November, 2012 to 3rd July, 2003 comprising 234 days violating rule

32(6) of the C.C.S. (Leave) Rules, 1972. After serving with a charge memo for his unauthorized absence, the Petitioner is said to have confessed vide letter dated 11th December, 2003. The disciplinary authority passed the order of compulsory retirement on the basis of such admission. The appeal against the said order was dismissed.

The sole argument raised by learned counsel for the petitioner is that no enquiry was conducted and the order of punishment was passed on the basis of communication dated 11.12.2003. Such writing was obtained from the petitioner on blank paper which has been used as admission of guilt.

The said document of admission of guilt is available at page 54 of the paper book. It shows that he has admitted his absence from duty on account of illness either of himself or his family members. He has prayed that he be exonerated of the charges. Such writing dated 11.12.2003 is attested by Enquiry Officer, Presenting Officer and Defence Assistant. In appeal, the learned appellate authority considered the arguments raised and observed as under:-

“(e) It may be seen that letter dt. 11 Dec 03 is a handwritten letter by individual. Hence the allegation of obtaining signatures on blank sheet and using it as admission of guilt is false, misconceived as the same has been countersigned by applicant himself,. Inquiry officer, Presenting Officer & Defence Assistant.”

A perusal of the appellate order shows that the petitioner

was absent on sixty different occasions during his appointment ranging for long spells of 55 days, 181 days and 234 days without valid medical certificate and, therefore, his absence was treated as Extraordinary Leave.

Keeping in view the absence from duty as also the admission of guilt dated 11.12.2003, the disciplinary authority found him guilty and imposed the punishment of compulsory retirement. The petitioner could not be able to offer any explanation for such absence, therefore, such communication has rightly been made basis for the order of punishment. Since the communication dated 11.12.2003 is countersigned by the Enquiry Officer, Presenting Officer as also the Defence Assistant, it cannot be pleaded that signature of the petitioner were obtained on blank paper.

We do not find any error in the order of the learned Tribunal warranting interference by this Court in writ jurisdiction.

The writ petition is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl.

U			
---	--	--	--