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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 780/2016**
HARI SINGH

..... Petitioner

Through: Mr. Pratap Ch. Misra, Adv.

versus

COMMISSIONER OF DELHI POLICE AND ORS

..... Respondent

Through: Ms. Prabhsahay Kaur, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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01.02.2016

We have heard learned counsel for the petitioner. He submits that the punishment of dismissal is disproportionate to the gravity of the charge. The Tribunal has accepted that there was justification for the absence of 268 days as corroborated by the medical certificate from the Rajiv Gandhi Government General Hospital, Alwar, Rajasthan. He submits that, ultimately, there was an absence of only 103 days, which is small and insignificant. This was not a case of wilful absence from duty.

We have considered the contentions and we do not find any reason to interfere with the impugned order dated 13.10.2015.

The petitioner, a Constable in the Delhi Police, had remained absent from duty without intimation and information from 08.09.2009 for 371 days till 15.09.2010. Communications addressed to him and

served at his residential address at Village & PO Mohawwa, Gunti Tehsil Bahrod, District Alwar, Rajasthan did not elicit any response or reply. It is also a fact that the petitioner had absented himself earlier on 87 different occasions.

The petitioner claims that he was suffering from psychotic depression and was under treatment at the Rajiv Gandhi Government General Hospital, Alwar, Rajasthan from 08.09.2009 to 01.06.2010. The petitioner relies upon a photocopy of the certificate issued by the said hospital. On verification, it was found that the certificate was genuine, but the petitioner was never admitted as an in-house patient and had been attending the hospital as an out-patient from time to time. The petitioner was declared fit for duty with effect from 02.06.2010. It is his absence thereafter which is completely unexplained. For this period, i.e., 02.06.2010 onward, the petitioner relies on a certificate issued by a private doctor. This certificate has been objected to and its veracity and admissibility is debatable. This certificate would not justify and explain the absence. The petitioner should have, after he was declared fit on 01.06.2010, reported and got in touch with the authorities. However, he chose to remain silent and belatedly relied upon a private doctor's certificate for the period from 02.06.2010 to 14.09.2010.

The petitioner is a member of the police force and must adhere to basic discipline. The petitioner's case has to be considered with compassion but it would be equally wrong to ignore or condone the gross indifference and failure to respond to repeated communications and then not report for duty and the consequent misconduct

on or after 02.06.2010.

At this stage, learned counsel for the petitioner submits that, in view of extraordinary circumstances, the petitioner would like to file an application for grant of compassionate pension. If there is any such provision, it shall be open to the petitioner to make such an application; we express no opinion on this aspect.

Keeping in view the aforesaid facts, we do not see any reason to interfere with the impugned order. The petition is dismissed.

SANJIV KHANNA, J

NAJMI WAZIRI, J

FEBRUARY 01, 2016/acm