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

+ W.P.(C) 1290/2016

RAGHAVENDRA PRASAD KURUVA, CISF Petitioner

Represented by: Mr.Sriram Parakkat, Advocate with
Mr.Nishad L.S., Advocate

versus

UNION OF INDIA Respondent

Represented by: Mr.Satyendra Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **20.07.2016**

1. Having heard learned counsel for the parties we find that the substantial relief has enured to the benefit of the petitioner when the Revisional Authority modified the penalty of one from removal from service to reduction in the pay by 3 stages for a period of 3 years with further order that during the period of reduction the petitioner will not earn any increment and on expiry of the period of the penalty the reduction will have the effect of postponing future increments of the petitioner.

2. The averments made in the writ petition would show that the petitioner does not dispute overstaying leave by 114 days. The petitioner admits that no intimation was sent to the department praying that the leave be extended. No document was sent to the department concerning petitioner's illness.

3. The documents which the petitioner relies for purposes of justifying

his absence have been perused by us and we do not find the same to be evincing any confidence. The petitioner was to report back on April 11, 2012 after the leave was over. He claims that he fell sick and was admitted at a primary health centre on April 09, 2012. The relevant document shows that the petitioner was discharged from the primary health centre on April 15, 2012. On discharge the doctor recommended that the petitioner should rest till April 20, 2012. On the prescription there are writings by the doctor extending rest firstly for one month then for 15 days and then for 5 days. This takes the petitioner to June 08, 2012 when the doctor certified petitioner to be fit.

4. For a fever which had subsidised on April 15, 2012 it surprises us that rest prescribed was for 2 months. Be that as it may, the petitioner claims that the day he was declared fit i.e. on June 08, 2012 he fell sick again and he went to a private doctor named Dr.Abrahim who advised rest for 15 days which was extended by another 15. Even if we take this to be true it takes the petitioner at best till mid July. But we see no reason why the petitioner went to Dr.Abrahim and not to district primary centre. It is apparent that a friendly doctor who was extending the advice to the petitioner to rest could not justify a false advice from June 08, 2012 and this would be the reason why the petitioner went to Dr.Abrahim. That apart, the last advice for rest is dated July 10, 2012. It records that the petitioner should rest for one week. The petitioner then claims that his uncle expired on July 17, 2012 and this is used to explain the petitioner reporting at the Group Centre on August 03, 2012.

5. The nature of the document and the timing thereof does not inspire confidence. The view taken by the disciplinary authority, the appellate authority and the revisional authority was that it is a case of a serious

misdemeanour which cannot be found guilty. On the question of the proportionality of the punishment, as noted hereinabove the revisional authority has already rectified the disproportionate penalty levied.

6. The writ petition is dismissed but without any order as to costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

JULY 20, 2016

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