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

\+ W.P.(C) 2793/2017

MAHESH CHANDRA LAL ..... Petitioner

Through Mr.Ashwin Vaish, Adv. with Mr.Vinod Pandey, Adv.

versus

UNION OF INDIA & ORS. ..... Respondent

Through Nemo.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

<u>O R D E R</u>

% **08.08.2017**

<u>C.M. No.12175/2017</u>

Exemption allowed, subject to just exceptions.

<u>W.P.(C) 2793/2017</u>

The petitioner has preferred the present petition to assail the order dated 15th July, 2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, in OA No.3276/2011 vide which the Tribunal has dismissed the Original Application preferred by the petitioner, to assail the penalty imposed upon him whereby petitioner's one increment of pay was withheld for a period of one year without cumulative effect.

The said minor penalty was imposed upon the petitioner on account of his unauthorised absence for a period of ten days. The findings returned by the disciplinary authority in the order imposing penalty read as follows:-

> "Now, THEREFORE, after taking into account the representation of Shri Mahesh Chandra Lal, Sr. Auditor and the facts and circumstances of the case, the undersigned holds that the charge against Shri Mahesh Chandra La, Sr. Auditor, that he unauthorisedly left his place of duty on 26.8.2008 and again on 21.10.2008 without the permission of the competent authority is conclusively proved. The undersigned, therefore, hereby imposes the penalty of withholding of one increment of pay in the time scale of pay for a period of two years without cumulative effect and not adversely affecting his pension, on Shri Mahesh Chandra Lal, Sr. Auditor.
>
> It is accordingly ordered that one increment of pay in the time scale of pay of Shri Mahesh Chandra Lal, Sr. Auditor shall not be allowed for a period of two years. It is further ordered that on expiry of this penalty, his pay shall be restored as if no penalty had been imposed, and will not have the effect of postponing future increments of pay. It is further ordered that the period of unauthorised absence from 22.10.2008 to 31.10.2008 shall be treated as dies-non and no pay and allowances including daily and travelling allowances shall be admissible during the said period."

The submission of learned counsel for the petitioner is that the respondents have entered the said period as leave period in the service record of the petitioner and the second submission is that the application to obtain leave had been addressed to the competent authority and it was not at all necessary for the same to be placed before the Accountant General.

We are not impressed by either of these submissions. Since the petitioner had availed of leave, obviously the same had to be accounted for in the service record of the petitioner. It is irrelevant as to who was competent to sanction the said leave. The fact of the matter is that the leave availed of by the petitioner was not sanctioned by any of the authorities. That being the position, the leave availed of by the petitioner continued to remain unauthorised.

In these circumstances, we find no merit in the present petition which is, hereby, dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 08, 2017/aa