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

+ **W.P.(C) 3374/2017**

VISHWAJEET KUMAR Petitioner
Through: **Mr. G D Chotumurada, Advocate**

versus

UNION OF INDIA AND ORS Respondents
Through: **Mr. Kirtiman Singh, CGSC with Mr.
Prateek Dhanda, Mr. Waize Ali Noor
and Mr. Vikramaditya Singh,
Advocate**

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **12.09.2017**

On 24th April, 2017, the following order was passed :-

“The impugned order refers to the conduct of the petitioner from the date of selection and joining as Constable (General Duty) on 12.6.2012 till the second show cause notice dated 13.6.2016 was issued. The show cause notice and the order dated 20.7.2016 have been passed taking into account the entire conduct and not one isolated solitary instance. We may observe that the petitioner accepts the factual matrix with regard to his abscondence, non-joining of duty on the expiry of sanctioned leaves etc. on each occasion and on different dates. He was earlier issued show cause notice dated 6.8.2015, to which he had pleaded guilty and indicated his inability continue in service and desire to take up a civil job. At that time, the respondent authorities took a lenient view and had given another opportunity to him to improve. Even thereafter, there were repeated defaults. The plea of double jeopardy is, therefore, rejected.

The other contention raised by the petitioner is with reference

to Rule 26(2) of the SSB Rules. Adverting to Rule 26(2), it is contended that it prescribes punishment of compulsory retirement or discharge from service. Learned counsel for the respondent states that he would obtain instructions on the said aspect, and, if deemed appropriate, remedial order would be passed.

List on 6th July, 2017.”

On the last date of hearing i.e. 6th July, 2017, counsel for the respondent had stated that he had obtained instructions and an appropriate order with reference to Rule 26(2) of the ***Sashastra Seema Bal (SSB) Rules, 2009***, would be passed.

We are informed that order dated 4th August, 2017 has been passed by Commandant 62nd Battalion expressly modifying the order of dismissal to order of discharge from service, which is applicable with effect from 20th July, 2016.

Counsel for the petitioner seeks permission to withdraw the present petition with liberty to challenge the order dated 4th August, 2017 in accordance with law.

The writ petition is dismissed as withdrawn with liberty as prayed for. However, we clarify that we had not expressed any opinion.

Copy of the order dated 4th August, 2017 be also taken on record.

Dasti.

SANJIV KHANNA, J

NAVIN CHAWLA, J

SEPTEMBER 12, 2017/P