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

+ W.P.(C) 3623/2017

KIRPAL SINGH

..... Petitioner

Through: Mr. J.P. Mishra, Advocate.

versus

DELHI POLICE THROUGH ITS COMMISSIONER..... Respondent

Through: Ms. Nidhi Raman, Advocate along
with Head Constable Sunil in person.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

28.04.2017

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The petitioner has preferred this petition to assail the order dated 03.05.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No.1652/2015. The Tribunal has dismissed the said Original Application of the petitioner herein. The petitioner had sought directions to the respondents to grant him compassionate allowance. The petitioner also assailed the order dated 22.11.2013, whereby the petitioner's request for grant of compassionate allowance under Rule 41 of the CCS (Pension) Rules, 1972 has been rejected by the respondent.

The petitioner was removed from service after holding a disciplinary inquiry against him on account of habitual absenteeism. The petitioner was a habitual absentee inasmuch, as, during the period of his services, he remained unauthorisedly absent on 25 occasions. In these circumstances, the respondent rejected the petitioner's request for compassionate allowance.

The submission of learned counsel for the petitioner is that the conduct of the petitioner did not involve moral turpitude.

Grant of compassionate allowance by the employer is an act of benevolence that the employer may show in a deserving case. It involves the exercise of its discretionary power by the employer by taking into account the past conduct of the ex-employee. It cannot be said that in every case where the misconduct does not involve moral turpitude, the delinquent employee can claim compassionate allowance as a matter of right.

The petitioner's conduct clearly shows that he was incorrigible and he remained on unauthorised leave on 25 occasions before he was removed from service. In these circumstances, if the respondent has taken the view that the petitioner should not be granted compassionate allowance, the exercise of discretion by the respondent cannot be called in question either before the Tribunal, or before us on the ground of it being arbitrary or unreasonable. Demonstration of misplaced sympathy in a case like this by grant of compassionate allowance would lead to encouragement to indiscipline in the ranks of the organisation. A clear message needs to be sent to others who are in service, that they cannot remain habitually indisciplined during the course of their service, and yet receive compassionate allowance in the eventuality of their removal from service for their habitual misconduct.

We find no merit in this petition. Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

APRIL 28, 2017

B.S. Rohella