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

+ W.P.(C) 2554/2018

EX CONSTABLE RAJBIR SINGH

..... Petitioner

Through: Mr. Shanker Raju with Mr. Nilansh
Gaur, Advs.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Ms. Rashmi Chopra with Ms. Asiya
Anand, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

11.12.2018

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1. The petitioner has preferred the present writ petition to assail the order dated 12.12.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.617/2000. The Tribunal has dismissed the said Original Application preferred by the petitioner wherein he had assailed the dismissal from service vide order dated 10.05.1996 apart from challenging the charge sheet issued to him, the inquiry report and the order of the Appellate Authority dated 11.08.1995.

2. The petitioner had joined the Delhi Police in the rank of Constable on 04.09.1978. On 01.02.1988, he was sent from 9th Bn. D.A.P for Advance Mob Control Course commencing from 03.02.1988 to 4th Bn. D.A.P. After joining the said course on 01.02.1988, he claimed that he became ill and that he had informed his seniors accordingly. Admittedly, he did not report till 18.12.1988. In the meantime, departmental inquiry was initiated against him on 06.08.1988. He did not join the proceedings and the order of

dismissal was passed against him on 14.06.1989. He preferred an Original Application before the Tribunal. The Tribunal held that the aspect of punishment may be reconsidered since the same appeared to be harsh and disproportionate. Consequently, the matter was reconsidered and an order dated 29.12.1994 was passed. The punishment imposed upon the petitioner, primarily, was forfeiture of the past service of the petitioner with its consequences.

3. The petitioner preferred a revision against the said punishment. The Revisional Authority was of the tentative view that proper punishment to be inflicted upon the petitioner was removal from service and, accordingly, issued a show cause notice to the petitioner proposing to enhance the punishment. Once again, the petitioner did not respond to the show cause notice and, consequently, he was removed from service.

4. The petitioner again preferred the Original Application in question, which was dismissed by the Tribunal on 09.03.2001. The petitioner then approached this Court and preferred W.P. (C.) No. 2320/2002. The petitioner sought to restrict his prayer only in relation to the quantum of punishment and for grant of pensionary benefits. In view of the submission made by the petitioner, the matter was remanded back to the Tribunal for fresh hearing. The same was disposed of on 16.11.2016.

5. After hearing the parties, the impugned order has been passed by the Tribunal – again dismissing the petitioner's Original Application. The Review Application preferred by the petitioner, too has been rejected by the Tribunal on 29.12.2017.

6. After some arguments, Mr. Raju submits that since the petitioner had rendered more than 10 years of service, his case may be considered by the

respondents for grant of Compassionate Allowance under Rule 41 of the CCS Pension Rules in the light of the judgment of the Supreme Court in *Mahinder Dutt Sharma v. U.O.I & Ors*, (2014)11 SCC 684.

7. Having considered the matter, we are not inclined to interfere with the punishment inflicted upon the petitioner i.e. of his removal from service. The petitioner was a member of a disciplined force and, in our view, it constituted gross misconduct and disloyalty to the force to remain absent for 11 months unauthorisedly. To show any leniency in such like matters and to inflict a lesser punishment, would certainly send a wrong message to the entire force, and have deleterious effect on the discipline in the force. Therefore, we are not inclined to interfere with the punishment inflicted upon the petitioner.

8. However, considering the fact that the petitioner had rendered over 10 years of service before indulging in the aforesaid misconduct, in our view, the petitioner's case should be sympathetically considered by the respondent for grant of Compassionate Allowance in the light of the judgment of the Supreme Court in *Mahinder Dutt Sharma* (supra). We dispose of this petition in the aforesaid terms.

9. The respondent should take decision on the aforesaid aspect within 4 weeks and communicate the decision to the petitioner.

10. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

JYOTI SINGH, J

DECEMBER 11, 2018

N.Khanna