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

+ W.P.(C) 623/2018 with CM Nos.2722-2723/2018

RAJESH KUMAR

..... Petitioner

Through: Mr.Rajiv Agnihotri, Advocate

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr.Nikhil Goel, Advocate for R-1
Mr.Anirudh Deshmukh & Mr.Ambuj
Dixit, Advocates for R-2

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **22.01.2018**

1. The petitioner herein, who was working on the post of a Cook in the respondents/CRPF, faced a departmental enquiry on the basis of OM dated 05.08.2010 in respect of three Articles of Charge imputing allegations that he was found absent from duty without prior permission of the competent authority on 23.06.2010, that he had remained absent from duty without prior approval of the competent authority on 30.09.2009, 07.08.2009 and from 29.10.2009 to 30.10.2009 and that he has become habitual of drinking liquor and had consumed liquor during working hours, on 15.12.2009. On the culmination of the said enquiry, the petitioner was removed from the

service, in terms of an order dated 02.11.2010, passed by the Disciplinary Authority. The petitioner has filed the present petition assailing the said order.

2. We may note that after the order dated 02.11.2010 was passed by the Disciplinary Authority, the petitioner had filed an appeal dated 25.11.2010, before the Appellate Authority, which was dismissed by the DIGP, CRPF, Gandhinagar, Gujarat vide order dated 25.01.2011. Thereafter, the petitioner had exercised the statutory option of filing a revision petition dated 28.02.2011 that came to be dismissed by the Revisional Authority vide order dated 06.07.2011. In other words, all the statutory remedies were exhausted by the petitioner by July 2011. However, he did not take any steps to challenge the orders passed by the Disciplinary Authority, Appellate Authority and the Revisional Authority by filing a writ petition in the High Court till as late as in the year 2015. The record reveals that the petitioner had filed S.B. Civil Writ Petition No.906/2015, before the High Court of Rajasthan, Jaipur Bench, assailing the aforesaid orders. However, on 04.01.2017, leave was sought by the petitioner to withdraw the said petition, which was accordingly dismissed as withdrawn.

3. Learned counsel for the petitioner submits that the petitioner had sought leave to withdraw the captioned petition as the court had expressed a view that the said petition was not maintainable in the Rajasthan High Court

for lack of territorial jurisdiction.

4. The said submission is not borne out from a perusal of the order passed on 04.01.2017 (Annexure P-7). The Rajasthan High Court did not grant any liberty to the petitioner to withdraw the captioned petition and file a fresh petition before a competent court vested with territorial jurisdiction. The said order has simply recorded the statement of the counsel appearing for the petitioner, seeking unqualified leave to withdraw the writ petition, which request was duly acceded to. The petitioner cannot be permitted to file the present petition and re-agitate the entire issue as raised by him in the earlier petition filed before the Rajasthan High Court, which was dismissed as withdrawn.

5. In this view of the matter, the present petition is dismissed as not maintainable, along with the pending applications.

HIMA KOHLI, J.

REKHA PALLI, J.

JANUARY 22, 2018

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