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

+ **W.P.(C) 2620/2019**

SURAJ VERMA

..... Petitioner

Through: Mr. Prashant Shukla & Mr. Digant
Kallol Deo, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Barkha Babbar, Advocate for
Respondent No.1/UIO

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

18.03.2019

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CM Appl.No. 12136/2019

1. Exemption allowed, subject to all just exceptions.

WP(C) No. 2620/2019

2. This is the second round of litigation at the instance of the Petitioner an Assistant Sub-Inspector (ASI/EXE) (UT) serving in the Central Industrial Security Force (CISF). He has challenged an order dated 19th April, 2017 passed by the Commandant, CISF, RTC, Arakkonam in Tamil Nadu removing him from service. The Petitioner has also challenged the order dated 15th October, 2018 passed by the Deputy Inspector General (DIG) RTC, Arakkonam, (Respondent No.4) dismissing his appeal against his order of removal.

3. Earlier the Writ Petition (C) No.13590/2018 had been filed by the Petitioner in this Court against the above orders. This Court by an order

dated 17th December, 2018 directed the said writ petition to be treated as the Petitioner's revision petition and to be placed before the Inspector General, CISF, South Sector Headquarters in Chennai (Respondent No.5) for consideration. Pursuant to the above order, Respondent no.5 has passed an order dated 28th January, 2019 affirming the order of removal from service. This too has been challenged in the present petition.

4. The facts in brief are that the Petitioner joined CISF as ASI in 2016 and was sent for training. The Petitioner was granted leave from 3rd to 7th November, 2016 to attend to his mother who had fallen from the roof. He was expected to report back for training on 8th November, 2016. He was issued a Call Up notice on 9th November, 2016 followed by a letter dated 27th November, 2016 asking him to report for duty.

5. According to the Petitioner he fell ill and was diagnosed with an 8 mm stone in his Kidney as well as Hepatitis B. He states that he submitted an application for extension of leave on 16th November, 2016.

6. After receiving the letter dated 27th November, 2016 the Petitioner by letter dated 15th December, 2016 informed the Respondents that he was still not well and that he should be accommodated for training in the next batch. He is also supposed to have enclosed a medical certificate.

7. The Respondents however contended that he continued over staying his sanctioned extra ordinary leave. A charge memorandum dated 6th January, 2017 for overstay of five days' sanctioned leave was served on him at his home address through registered post on 13th January, 2017. When the

Petitioner did not reply, a Departmental Inquiry under the CISF Rules, 2001 was instituted. The Petitioner was stated to have been issued as many as two inquiry notices by the Inquiry Officer. However, he did not appear in the Departmental Inquiry which then was concluded ex-parte.

8. The report of the inquiry was sent to the Petitioner under cover of letter dated 14th March, 2017. It was acknowledged by the Petitioner on 23rd March, 2017. Despite 15 days' time being given to him to represent against the report, the Petitioner failed to do so.

9. The Disciplinary Authority (DA) i.e. the Commandant CISF (RTC) Arakkonam (Respondent No.3) issued a final speaking order on 19th April, 2017 removing the Petitioner from service. The appeal and the revision petition of the Petitioner were thereafter rejected in the manner noticed hereinbefore.

10. Learned counsel for the Petitioner sought to contend that the Petitioner's overstay of leave was for bona fide reasons i.e. on account of his own kidney ailment and therefore a more lenient view ought to have been taken of his misconduct.

11. The Court is unable to agree with the above submission. The Petitioner having joined training as ASI in the CISF, which is a paramilitary force, was expected to be aware of the requirement of maintaining discipline and of the consequences of overstay of sanctioned leave.

12. On Petitioner's own showing he did not report for duty till 25th July,

2018 after having been fully aware that his sanctioned leave came to an end on 7th November, 2016. Even assuming that he had fallen ill on 16th November, 2016, once he failed to hear from the Respondents about his request for extension of leave, he had no option but immediately report for duty. The fact that he waited till 25th July, 2018 to do so only shows that he was utterly careless about the consequences of such long absence without sanction of leave. There is no valid explanation for the delay in the Petitioner reporting back for duty.

13. For all the aforementioned reasons, the Court finds no error having been committed by the Respondents which requires interference by this Court.

14. The petition is accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 18, 2019

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