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

+ W.P.(C) 5024/2019

EX.CT. (DVR.) RAJ KUMAR

..... Petitioner

Through: Mr. Nikhil Bhardwaj, Adv.

versus

COMMISSIONER OF POLICE AND ORS.

..... Respondent

Through: Mrs. Avnish Ahlawat, St. Counsel,
GNCTD (Services) with Mr. n.K.
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

20.05.2019

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C.M. Nos. 22256,22257/2019

Exemptions allowed, subject to all just exceptions. The applications stand disposed of.

W.P.(C) 5024/2019 & C.M. No. 22255/2019

The petitioner assails the order dated 10.08.2018, passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 1407/2015. He also assailed the order dated 16.08.2013, passed by the Additional Deputy Commissioner of Police, GA PCR Delhi, whereby he was dismissed from service. He also assailed the order dated 14.08.2014,

passed by the Joint Commissioner of Police, Operations – dismissing his departmental appeal. He also assailed the enquiry proceedings held against him, wherein he was found guilty. The petitioner was charge sheeted on the ground that he was unauthorisedly absent from service for 51 days and to justify the same, he had submitted forged and fabricated medical certificate, purportedly issued by the Safdarjung Hospital, New Delhi. In the enquiry proceedings, it was found that the medical record relied upon the petitioner had not been issued by the Safdarjung Hospital, New Delhi.

Even in his defence statement, he, inter alia, stated that his mental and financial status was disturbed and to avail his salary, he had taken the medical OPD cards/ slips from Safdarjung Hospital, New Delhi without the signature/ stamp of the doctor, for which he sought pardon.

Considering the aforesaid conduct of the petitioner, he was dismissed from service. The Tribunal has not found favour with his Original Application.

The submission of learned counsel for the petitioner is that the petitioner had rendered 24 years of service and his dismissal from service has had the effect of denying him pension and other retiral dues. He submits that the service of the petitioner was, otherwise, blemishless.

Learned counsel, therefore, submits that the punishment imposed upon the petitioner is rather harsh and it may be substituted by another punishment so that he could get his pension and pensionary benefits.

Mrs. Ahlawat, who appears on advance notice, submits that the petitioner being a Police Officer was not expected to resort to forgery and fabrication of record only to justify his unauthorised absence. She submits that the punishment imposed is not only relating to the unauthorised absence

but to his grave misconduct of forgery and fabrication of record.

Having heard learned counsels, we are of the view that the punishment imposed upon the petitioner is not disproportionate to his aforesaid misconduct. At the same time, the impact of the said punishment has been very harsh in as much, as the petitioner has been denied his entire pension and retiral benefits despite having rendered 24 years of service with the respondent.

It is situations like this, which are sought to be addressed by Rule 41 of the CCS Pension Rules, which provides for payment of Compassionate Allowance to a Government servant, who is dismissed or removed from service, and who otherwise would forfeit his pension and gratuity. Even in such cases, the competent authority authorised to dismiss or remove the Government servant from service may, in cases deserving special consideration, sanction Compassionate Allowance not exceeding two-thirds of the pension or gratuity or both, which would have been admissible to the Government servant, if he had retired on compensation pension.

While dismissing the present petition, we direct the respondents to consider the petitioners claim for compassionate allowance under Rule 41 of the CCS Pension Rules in case he makes an application thereof. The same shall be considered in accordance with the rules.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 20, 2019

N.Khanna