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

+ **W.P.(C) 5897/2019**

JASPAL SINGH

..... Petitioner

Through: Mr. Abbula Kalam with Mr. Jawad
Tariq and Mr. Abdul Qadir, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Ms. Abha Malhotra with Mr. Chetan
Shukla, Advs.
Mr. Chetan Kumar Shukla, GP

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

27.05.2019

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C.M. No. 25574/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 5897/2019

Issue notice. Counsel for the respondent accepts notice.

The petitioner has preferred the present writ petition to assail the order dated 31.01.2019 passed under the signatures of DIG (Staff), whereby

the petitioner's petition dated 18.07.2018, submitted by him in respect of the order dated 31.01.2018 has been rejected. Vide order dated 31.01.2018, the petitioner was retired from service on the ground of his unfitness with effect from 31.01.2018 without any financial and pensionary benefits under Rule 25 of the BSF Rules, 1969. This order came to be passed after a duly constituted Medical Board of Officers opined that the petitioner was suffering from "Depressive Disorder with Obsessive Compulsive Disorder with Somatisation".

The petitioner was found to be suffering from 70% disability. The petitioner had rendered about 5 ½ years of unconfirmed service at the time of the passing of the order dated 31.01.2018. The petitioner had then approached this Court by preferring W.P. (C.) No. 6811/2018. The same was disposed of on 04.07.2018 with liberty to the petitioner to exhaust the statutory remedy available to him.

Consequently, the petitioner had preferred the petition on 18.07.2018. Vide the impugned order dated 31.01.2019, the said petition has been rejected.

The first submission of learned counsel for the petitioner is that the order dated 31.01.2019 has been passed by the DIG(Staff) and not by the supervisory authority. This submission has no merit since the impugned order dated 31.01.2019 itself records that the petitioner's petition was examined comprehensively by the DG BSF and that the DG BSF has rejected the petition being devoid of merit. The impugned order has been issued after approval of the DG BSF.

Merely because the impugned communication was issued under the signatures of the DIG(Staff) does not follow that the same was issued by

him under his own authority. The order consequently mentions that the same has been issued by the approval of the DG BSF after the petition was comprehensively considered and rejected by DG BSF.

Learned counsel for the petitioner submits that by placing reliance on Rule 25 of the BSF Rules, he has been denied financial and pensionary benefits. However, Rule 25 does not deal with the said aspect. We have perused Rule 25 of the aforesaid Rules and find merit in this submission of the petitioner.

Thus, financial and pensionary benefits cannot be denied to the petitioner by placing reliance on Rule 25 aforesaid. We, therefore, dispose of this petition with a direction to the respondents to consider whether the petitioner is entitled to financial and pensionary benefits in terms of the Rules applicable to the petitioner and in case, he is so entitled, the same shall be granted to him.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

MAY 27, 2019

N.Khanna