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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11101/2019**

RAJ KUMAR SINGH Petitioner
Through Mr. Umesh Singh and Ms. Karishma
Singh, Advocates
versus

UNION OF INDIA AND ORS. Respondents
Through Mr. Rahul Sharma and Mr.
C. K. Bhatt, Advocates
Mr. Manu Chaturvedi, Govt. Pleader
for R-1

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **15.11.2019**

1. The present petition challenges an order dated 5th March, 2005 passed by the Commandant of the 65th Battalion, dismissing from service the Petitioner, who was working as Constable (GD) in the Central Reserve Police Force ('CRPF'), on the ground that he remained absent without prior permission from duty with effect from 17th March, 2004 which constituted an offence punishable under Section 11 (1) the CRPF Act, 1949.

2. The above impugned order was passed consequent upon a disciplinary enquiry, the notice of which was sent by the registered post to the Petitioner at his last known address on 26th November, 2004. As it transpired, despite such notice the Petitioner did not participate in the enquiry. The Enquiry Officer completed the *ex parte* enquiry and submitted his report to the Disciplinary Authority (DA) i.e. the Commandant on 1st February, 2005.

The DA sent a copy of the report to the Petitioner at his last known address on 30th February, 2005. Again, despite service of these documents, the petitioner failed to respond.

3. It appears that the Petitioner, after a period of 10 years, submitted an appeal to the Deputy Inspector General of Police, CRPF, Bhopal only much later on 5th May, 2015. This appeal was rejected by a detailed order dated 29th June, 2015. The revision petitions filed against the said order have also been dismissed on 28th September, 2015.

4. A further appeal filed before the Director General of CRPF was rejected on 2nd January, 2017. It appears that the Petitioner persisted with another representation which was also rejected on 30th May, 2017.

5. Initially, the Petitioner approached the High Court of Allahabad with a writ petition (Writ Petition No. 23240/2018), which was rejected by the said Court on 30th October, 2018 for lack of territorial jurisdiction.

6. The Court enquired with learned counsel for the Petitioner about the real reason of the Petitioner's absence from duty from 27th March, 2004 even after the expiry of earned leave.

7. Learned counsel for the Petitioner, submitted that the Petitioner was unwell during that period. However, there is no document placed on record to show what type of ailment the Petitioner was suffering from and whether it was of a kind that prevented the petitioner from even communicating to

the Respondents of his inability to report for duty on 25th March, 2004. There is a copy of a handwritten prescription dated 10th March, 2004 issued by the Metro Hospitals and Heart Institute. However, this again says nothing about Petitioner's actual illness which prevented him from reporting to duty on 17th March, 2004. There is also another endorsement of 18th May, 2004 which states that the Petitioner was hospitalised between 10th March and 15th May, 2004.

8. Assuming this to be true, there is no explanation as to why the Petitioner did not apply for extension of his leave or for medical leave or for that matter, report to duty after being discharged from hospital. It is also not known as to whether any of the above medical documents were ever produced before the Respondents. The other document placed on record is a laboratory report of 9th April, 2005, which again does not help the case of the Petitioner. The medical records of October, 2005 appear to indicate that the Petitioner was suffering from Hepatitis B at that stage, but then again the Petitioner does not appear to have brought all of this to the notice of the Respondents at any stage by producing the requisite medical record.

9. Importantly, the Petitioner has no explanation to offer for not responding to the notices issued to him by the Enquiry Officer and to the report of the DA sent to him at his address. There is a huge gap between the medical reports of 1st April, 2009 and 14th October, 2013.

10. The Petitioner does not appear to have been serious about following up his case of dismissal with the Respondents. The CRPF is obviously a

disciplined force and long periods of absence without any proper explanation cannot be expected to be condoned by the Respondents. Indeed, this is an extraordinary case of the Petitioner not having bothered to inform the Respondents of the actual reasons for his absence and not having produced the medical records to justify his absence.

11. In the circumstances, the Court sees no reasons for interfering with the impugned order. The petition is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 15, 2019

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