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

+ W.P.(C) 3567/2021

RAM SINGH

..... Petitioner

Through: Mr. Ankit Monga, Adv.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mrs. Avnish Ahlawat, Adv. for
GNCTD with Mr. Nitesh Kumar
Singh, Mrs. Tania Ahlawat and Ms.
Palak Rohmetra, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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23.03.2021

CM No. 10786/2021 (for exemption)

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

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3. The petition impugns the order dated 9th April, 2019 of Central Administrative Tribunal (CAT), Principal Bench, New Delhi of dismissal of O.A. No. 518/2014 preferred by the petitioner, impugning the disciplinary proceedings held against him on the charge of unauthorised absention from duty for a period of 39 months 20 days 22 hours and 15 minutes, resulting in an inquiry report dated 8th November, 2012, of the charge having stood proved and the punishment meted out to the petitioner on 4th January, 2013, of dismissal from service and the order dated 5th September,

2013 of dismissal of departmental appeal preferred thereagainst.

4. This petition itself has been preferred and has come up for hearing after nearly two years of the impugned order dated 9th April, 2019. Considering the relief claimed by the petitioner, of reinstatement in service, the delay of two years on the part of the petitioner, though without job, in preferring this petition, speaks volumes of the conduct of the petitioner even now, though claiming to be aggrieved from dismissal from service on the ground of unauthorised absention from duty.

5. The counsel for the petitioner has drawn our attention to paragraph 9 of the impugned order, where CAT, after discussion, has concluded that the petitioner had been unable to point out any violation of any of the principles of natural justice or of the procedural rules for holding departmental enquiry. The counsel for the petitioner has contended that the petitioner, during the disciplinary proceedings, had submitted his medical records comprising of 145 pages and which were neither discussed by the Inquiry Officer nor has any finding been given on the basis thereof. It is contended that the petitioner was mentally disturbed and thus had absented from duty and for the said reason, the punishment meted out is too harsh in the circumstances. It is further argued that the petitioner is fully recovered now and is in a position to serve.

6. We have asked the counsel for the petitioner to show to us the best medical record claimed to be produced by the petitioner before the Inquiry Officer.

7. The counsel for the petitioner has drawn our attention to Annexure P-1 to the petition, being a medical certificate dated 14th August, 2006, issued by Medical Officer of some hospital in Alwar, Rajasthan (from the stamp on

the said document the name of the hospital cannot be deciphered); the typed copy of the said medical certificate is as under:-

*“Medical Sickness Certificate
Medical Care Rule 76*

Date: 14-8-06

I, Vaid Mohan Lal, after having carefully examined the matter personally, hereby certify that Sh.Ram Singh, Rank Constable, whose signatures appended here-in-below, is suffering from brain disorder and I advise his absence from duty from 14.08.06 to 28.08.06 is extremely necessary for his recovery.

*Sign. Patient : Sd/- Ram Singh
Name & Address : Ct.Ram Singh, 1949-T
Office : Traffic*

*Sd/- Vaid Mohan Lal
Signatures of Medical Officer”*

8. As would be evident from above, the person issuing the aforesaid certificate has not even described himself as a doctor. Moreover, the ailment from which the petitioner is certified as suffering from, is stated to be ‘Brain Disorder’ and which is a terminology known to be used by quacks rather than medical professionals. The said medical certificate does not inspire any confidence and does not prove what is being argued by the counsel for the petitioner.

9. The counsel for the respondents Delhi Traffic Police, appearing on advance notice states that it is not that as if the Inquiry Officer has not considered the aforesaid certificate or other documents but has observed that neither the original was produced nor was any doctor brought in during the inquiry to prove that the petitioner was unwell or unable to attend the duty.

10. Be that as it may, we have enquired from the counsel for the petitioner, whether the petitioner, before absenting himself, made any application for leave and/or was granted any leave.

11. The answer is in the negative.

12. No employee, lest a public servant performing a vital public duty, as of managing traffic in any city, can afford to at his *ipse dixit* absent himself, whenever so desires, without even applying for leave and the same being sanctioned. If all public servants are to have this freedom, no public service can be rendered efficiently. If the petitioner had applied for leave and was not granted the same, the petitioner had remedies thereagainst. However the petitioner did not even apply for leave, under the impression that being a government employee he can serve and join whenever desires and that his employment is secure and he cannot be removed therefrom. Merely canvassing illness, that too not for pursuing a leave application but when faced with disciplinary enquiry, does not entitle the petitioner to any sympathy and if such sympathy were to be shown by the Courts, the entire public services would come to a standstill, leaving the tax payers in a lurch.

13. Rather, the conduct of the petitioner, of waiting for two years before preferring this petition, also shows that the petitioner is not really interested in working and is only biding his time, to be able to earn pension for life, by seeking reinstatement.

14. We may mention that it is also the finding against the petitioner, that the petitioner, prior to the aforesaid unauthorised absention of 39 months 22 days 12 hours and 15 minutes also, throughout his career, has been guilty of absenting himself unauthorizedly from duty, from time to time.

15. There is no merit in the petition.
16. Dismissed.

RAJIV SAHAI ENDLAW, J.

AMIT BANSAL, J.

MARCH 23, 2021
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