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

+ **W.P.(C) 9854/2021 & CM APPLs. 30337-338/2021**

MOHD. RAFI

..... Petitioner

Through: Mr. Kaushal Yadav, Advocate with
Mr. Shafik Ahmed and Mr. Nandlal
Kumar Mishra, Advocates.

Versus

DEPUTY INSPECTOR GENERAL ,CRPF
& ORS & ORS.

..... Respondents

Through: D.S.Mehandru, Advocate with
Mr. Akshat Singh, Advocate.
Mr. Vivek Kumar Singh , DC Law
CRPF.

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Date of Decision: 08th September, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN,J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 11th June, 2019 issued by the Respondent No. 1 and order dated 08th August, 2017 issued by the Respondent No. 2, whereby the Petitioner was removed from service. Petitioner also seeks reinstatement of service with full back wages and other consequential benefits.

3. Learned counsel for the petitioner states that the Petitioner was not served with any notice asking him to rejoin his duty or regarding initiation of departmental proceedings for the alleged misconduct of over staying on sanctioned leave. He further states that the punishment of removal from service for alleged misconduct of continuous absence from duty with effect from 06th June, 2016 awarded under Section 11(1) of the CRPF Act, 1949 is highly disproportionate. He states that the Petitioner over stayed his leave due to his mental condition and subsequent illness caused due to the matrimonial cases instituted by the Petitioner's wife against him before the family court, Moradabad and the removal of the Petitioner's minor children from his custody.

4. This Court is of the view that the petitioner, who is a member of Central Armed Police Forces (CAPFs), was obliged to report back to duty after expiry of the leave. Respondents/CRPF was under no obligation in law to keep on issuing notices to invite the petitioner to re-join his service. Consequently, this Court is of the view that the petitioner has violated his solemn duty and responsibility to report back on time.

5. The factum of matrimonial dispute and illness could have been agitated before the Inquiry Officer. In any event the petitioner should have either reported back on time or sought extension of his leave-- which he did not do in the present case. For long unauthorised absence from duty the punishment of dismissal of a CAPF personnel cannot be held to be *per se* disproportionate.

6. This matter calls for no interference in writ jurisdiction. Consequently, the writ petition along with pending applications is dismissed.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

SEPTEMBER 8, 2021/TS

