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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 21.09.2023

+ W.P.(C) 12528/2023 & CM APPL. 49437/2023

SH. P. S. AVINASH KUMAR Petitioner

versus

CENTRAL RESERVE POLICE FORCE (CRPF) Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Anshul Kumar, Mr. Manish Sangwan and Mr. Bhanu Pratap, Advocates.

For the Respondents: Mr. Manish Mohan, CGSC with Mr. Jatin Teotia, Advocate with Sh. Amit Chaudhary. Training Comot. from CRPF Academy.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. Nos. 49438-439/2023

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 12528/2023, CM APPL. Nos. 49437/2023

1. Petitioner impugns order dated 20.09.2023, whereby the casual leave sanctioned to the petitioner has been cancelled.



2. Issue notice. Notice is accepted by learned counsel appearing for the respondents.
3. With the consent of the parties, the petition is taken up for final disposal today itself.
4. Petitioner was given provisional appointment to the post of Assistant Commandant (GD) in the Central Reserve Police Force on 18.01.2022 and was part of the 53rd Batch of training officers for the said post.
5. Petitioner applied for grant of three days' Casual Leave for taking the Civil Services Mains Examination, which were scheduled on 15.09.2023, 16.09.2023, 17.09.2023, 23.09.2023 and 24.09.2023, out of which 17.09.2023 and 24.09.2023 were Sundays. Said leave was sanctioned on 12.09.2023. However, vide impugned office order dated 20.09.2023, the Casual Leave of 23.09.2023 has been cancelled.
6. Learned counsel for the respondent on instruction submits that petitioner who had initially joined with the 53rd Batch, could not complete his training as he had taken leave of over 300 days on medical grounds and was relegated to the 54th Batch. He submits that even in the 54th Batch, he has taken medical leave of 180 days and constantly reported sick. Consequent to which, he has now been relegated to the 55th Batch, training of which is to commence some time in the next year.
7. He further submits that petitioner had been sanctioned leave for 17.09.2023 and was accordingly to report for duty on evening of 17.09.2023. However, he failed to report and when contacted over phone, he stated that he would join on the next day. And on 18.09.2023, he also



reported at 11:57 Hrs. which was way beyond the reporting time and once again cited medical reasons.

8. Learned counsel for the respondent further submits that the conduct of the petitioner of over-staying of leave without sanction and also acting prejudicial to the CRPF, amounts to indiscipline, for which the competent authority reserves its right to take appropriate action in accordance with law.

9. He submits that since petitioner over-stayed leave and did not report for duty, the competent authority was constraint to cancel the leave sanctioned for 23.09.2023 with permission to avail 24.09.2023. (Sunday)

10. Learned counsel for the petitioner disputes the same.

11. We find that the petitioner had sought for leave to appear in the Civil Services Mains Examination and the last two papers are on 23.09.2023 and 24.09.2023, in case, the leave of the petitioner is cancelled, petitioner would be prejudiced and may not be able to appear in the said examination. No doubt, the conduct of the petitioner in over-staying leave and taking excessive leave cannot be countenanced. However, keeping in view the facts and circumstances that it may be a once in a lifetime opportunity for the petitioner, we are of the view that the order cancelling the leave of the petitioner for 23.09.2023 with permission to avail on 24.09.2023 (Sunday), needs to be set aside. Said order is accordingly quashed. Petitioner shall be deemed to be on Casual Leave on 23.09.2023 with permission to avail 24.09.2023 (Sunday).

12. This would of course be without prejudice to the right of the



respondent to take appropriate action against the petitioner for the alleged over-stayed of leave and indiscipline, in accordance with law.

13. It is clarified that leave has been granted to the petitioner, keeping in view the facts and circumstances of the case and is without prejudice to the rights and contentions of the parties.

14. Petition is disposed of in the above terms.

15. Order *dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

SEPTEMBER 21, 2023/R