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O. A. No. 23 of 2006

ORAL Order dated 24-07-2006.

Heard learned Counsel for the Applicant. After conducting disciplinary proceedings, the Applicant was dismissed from service. The said order of dismissal was challenged by the Applicant in Original Application No. 595 of 2003. In order dated 7<sup>th</sup> July, 2003 passed in OA No. 595 of 2003, this Tribunal found that there was no illegality or irregularity in conducting the disciplinary proceedings against the Applicant.

Admitted facts were that the Applicant remained on leave for 133 days at different spells by producing leave application supported by Private Medical Certificate.

Besides this, the Applicant had unauthorized remained absent for 158 days. On merit this Tribunal did not find any case. But so far as punishment was concerned, it was observed that dismissal for unauthorized absence was harsh and shocking to judicial conscience. Accordingly, the matter was remitted back to the authorities for grant of lesser punishment on the Applicant as the law permits

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(other than removal/dismissal from service). The Disciplinary Authority has now imposed the punishment of compulsory retirement.

Learned Counsel for the Applicant states that punishment of compulsory retirement is equal to dismissal/removal. We do not find any merit in the submission of the learned Counsel for the Applicant. Compulsory retirement and dismissal are two different punishments and Compulsory retirement cannot be treated as dismissal. The Disciplinary Authority in accordance with the direction of this Tribunal, has granted lesser punishment of compulsory retirement as a result of which, the Applicant is entitled to service benefits for the service rendered by him. The punishment of compulsory retirement imposed cannot be said to be either shockingly disproportionate or harsh in relation to the proved charge so as to call for interference. We therefore, do not find any merit in this Original Application; which is accordingly rejected.

MEMBER (ADMN.)

VICE-CHAIRMAN