

OA 623/05

Dated 6.12.2006

Shri Nawal Kishore, ld. counsel for the applicant.

Shri N.K. Sinha, ld. ASC for the respondents.

ORDER [ORAL]


The case of the applicant is that while working on regular basis as Safaiwala, he fell ill and absented himself from duty from 16.4.1999 to 31.12.2003. It is submitted that the applicant went to join duty on 1.1.2004 but he was not allowed ^{on} ~~due to~~ one pretext or another, ⁱⁿ Whereafter, he sent a legal notice. The prayer is to direct the respondents to allow him to join or to reinstate him on duty since April, 1999.

2. It appears that this case was earlier dismissed for non prosecution, ⁱⁿ Whereafter, it was restored after which, before any order for admission of the case could be passed, the respondents, on their own, filed a reply. Pointing out this reply, the ld. counsel for the respondents submits that due to his unauthorised absence as aforesaid, a disciplinary proceeding was initiated against him for which notice was sent to the applicant by registered post which returned back as the addressee could not be traced. Therefore, the same was intimated to the applicant by publication ⁱⁿ ~~of~~ news papers but since ^{he} ~~then~~ he continued ^{his} absence, ^{and} the disciplinary authority ultimately dismissed him from service.

3. The applicant has also filed a M.A. No.623 of 2005 for condonation of delay and ^{how} controverted ^{with} the position as brought out by the respondents. After some arguments, the ld. counsel for the applicant sought permission to withdraw this O.A. as well M.A. so that the applicant may file a fresh original application seeking proper reliefs in view of what has been

revealed in the written statement relating to ^{the} departmental proceeding.

4. The prayer is allowed. The O.A. along with M.A. 623 of 2005 are disposed of as withdrawn. The applicant, if so advised, may file a proper application, subject to limitation.


[S.N.P.N. Sinha]M[A]


[P.K. Sinha]VC

mps.