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

% Date of Decision: 22nd October, 2009

+ **W.P.(C) 11603/2009**

CHAMAN LAL Petitioner

Through: Petitioner in person

versus

UOI, MINISTRY OF DEFENCE, SOUTH BLOCK,
NEW DELHI & ORS.

..... Respondents

Through: Ms.Barkha Babbar, Advocate
and Wg.Cdr. R.Mohanty, Joint
Director, Medical Services, Air
Head Quarters, for the
respondents

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

PRADEEP NANDRAJOG, J. (ORAL)

CM No.11436/2009

Since the writ petition is being disposed of today itself, the above-captioned application which seeks interim relief is dismissed as infructuous.

WP(C) No.11603/2009

1. Rejoinder affidavit has been filed in Court. The same is taken on record.

2. Rule DB. Heard for disposal.
3. The petitioner was diagnosed with Non Hodgkin's Lymphoma i.e. Cancer and was successfully treated at the Army Hospital at Delhi.
4. Chemotherapy had the desired results. The growth of Cancer Cells has been arrested and the petitioner is, as of today, disease free.
5. Being posted at Delhi for around 9 years, outliving the normal period during which a person is ordinarily to be posted at a place, the petitioner was posted out to Mumbai and as per his request was issued a transfer posting order, posting him at Pune.
6. The present writ petition was filed making various grievances but limiting the relief to only one prayer; being that, a direction be issued to the respondents to post the petitioner to a place where all investigative facilities exist keeping in view the fact that the petitioner is having loco motor disability of the lower extremity.
7. The petitioner who appears in person states that he has to undergo a whole body PET/CT scan and that the said facility is not available at the Army Hospital in Pune. The petitioner states that although other diagnostic facilities are available at the Army Hospital in Pune, PET/CT scan facility

not being available he would be required to visit Delhi with periodic intervals and keeping in view the loco motor disability as also the fact that he needs an attendant to move about; the authorities issuing only one railway warrant, on account of extreme hardship to him, directions should be issued to the respondents to re-post the petitioner at Delhi.

8. Wing Commander R.Mohanty, a medical expert, informs us, with reference to Annexure R-1, that the PET/CT Scan is not a part of the treatment to be given to the petitioner. The scan is to obtain images after injecting a dye to see whether the Lymph Nodes are in order as also whether any Cancer Cells are forming in the body. With reference to Annexure R-1 it is pointed out to us that said scan is being done on yearly basis; the last scan was conducted on 27.7.2009 and the one previous thereto was conducted on 9.7.2008. With reference to Annexure R-1 it is pointed out that the opinion expressed is that with reference to the previous scan no abnormality was noted.

9. In a nut-shell, respondents state that all facilities to treat the petitioner for the disease suffered by him are available at the Army Hospital at Pune and that the PET/CT Scan which requires to be done to detect any abnormality is

on a yearly basis and thus the petitioner should be continued to be posted at Pune.

10. Wg.Cdr. R.Mohanty informs us that the Army Referral Hospital at Delhi is already over-worked and there are many crying cases requiring posting at Delhi for continuous medical treatment.

11. Undoubtedly, the petitioner requires a sympathetic consideration of his problem, but we cannot at the same time, lose track of the fact that there are many others who require medical treatment at Delhi.

12. The petitioner does not require any further medical treatment at Delhi. Whatever medicines have to be given to the petitioner can be provided for at Pune. Specialist doctors pertaining to the medical infirmity of the petitioner are stationed at Pune.

13. The only problem is of a yearly PET/CT Scan, for which at present the requisite facilities are not available at Pune. Thus, the petitioner requires one movement a year to visit the place where said facility is available.

14. It is not a hardship of a kind which cannot be mitigated by passing appropriate directions.

15. In our opinion, the problem of the petitioner can be redressed by directing the respondents to refer the

petitioner to a private hospital in Pune where the requisite diagnostic facility i.e. PET/CT Scan facility exists. In case no such hospital is available at Pune, then in said circumstance, the petitioner can be referred to the nearest place, be it private, where such a facility is available and in such eventuality, keeping in view the loco motor disability of the petitioner, a railway warrant can be issued for the to-and-fro journey not only to the petitioner but even for one escort.

16. Declining relief as prayed for, we dispose of the writ petition directing the respondents that whenever required, petitioner be referred to a private hospital in Pune where the requisite diagnostic facility of PET/CT Scan exists. In case no such hospital is available at Pune, then in said circumstance, the petitioner be sent to the nearest place (even private) where such a facility is available and in such eventuality a railway warrant be issued for the to-and-fro journey to be undertaken by the petitioner as also for one escort.

17. No costs.

18. DASTI.

PRADEEP NANDRAJOG, J.

SURESH KAIT, J.

October 22, 2009/rk