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

CNR No. DLHC010324172025

+ **W.P.(C) 6976/2025**

SHAILESH KUMAR YADAV

.....Petitioner

Through: Mr. Abhishek Kumar Singh and Ms.
Muskaan Gulati, Advocates

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vivek Goyal, CGSPC with Mr.
Aryan Aggarwal, Advocate

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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24.08.2026

1. Heard.

2. The prayer in the petition reads thus:-

*“(a) Quash and Set aside the order(s) dated 29.06.2024
issued by Respondent No. 3, And/or*

*(b) Issue a Writ of-Mandamus or Order/direction(s) in the
nature of mandamus; directing Respondents to place all
the relevant records related to the said case before this
Hon'ble Court, And/or*

*(c) Issue a writ in the nature of mandamus/any other
writ/order directing Respondent no. 3 to consider the
entire period of hospitalization and beyond (from*



25.12.2022 to 02.09.2024) availed by petitioner due to illness, as Work Related Illness and Injury Leave(WRIIL) in terms of O.M dated 30.08.2019 passed by the Department of Personnel and Training.

(d)Issue a writ in the nature of mandamus/any other writ/order(s) directing Respondent no.3 to release entire amount salary and allowances of the Petitioner that were stopped/ or, deducted by Respondent No. 3 on account of Half Pay Leave (HPL), Leave Not Due (LND) and others, due to prolonged illness and long term hospitalization of the Petitioner.”

3. The record of the proceedings depicts that on 6th September, 2012, the petitioner was referred to Medical Board proceedings, wherein he disclosed the cause of ailment as that of having suffered an injury while playing the game of football being on duty. It appears that subsequent thereto, the petitioner was subjected to referral to the Government hospital and the petitioner had taken treatment from All India Institute of Medical Sciences ('AIIMS') and various hospitals.

4. It is the case of the petitioner that in such an eventuality, it was the duty of the respondent to constitute a Court of Inquiry and assess whether the petitioner can be said to be beyond the medical category SHAPE-1 and is entitled to the benefit of disabled pension or the service benefits.

5. As against above, *Mr. Vivek Goyal*, learned CGSPC appearing for the respondent oppose the prayer as, according to him, whatever was admissible under the Service Rules has been already provided, as not only the leave was sanctioned at the relevant time, but also medical assistance was provided.

6. It is urged that the Court of Inquiry cannot be held at this stage



particularly when no medical documents are available with the respondent having regard to the delayed claim.

7. Having considered the aforesaid submissions, it is apparent that Rule 174 of the Border Security Force Rules, 1969, particularly, clause (b) of Sub-Rule (2) of Rule 174, contemplates the constitution of a Court of Inquiry in case the injuries sustained by a person are likely to cause full or partial disability.

8. It was in the Court of Inquiry to be determined whether such injuries were attributable to service or not.

9. In the aforesaid factual background, particularly, having regard to the earlier medical board proceedings and subsequent referrals to the Government Hospitals by the respondent, it was incumbent upon the respondent to conduct themselves as per the statutory mandate provided under Rule 174 (2)(b).

10. The mere fact the record is not available with the respondent cannot be a ground to shirk away this statutory obligation as per the rules referred above.

11. In that view of the matter, we deem it appropriate to allow the present petition.

12. We direct the respondent to conduct a Court of Inquiry in the matter of petitioner so as to find out whether the injury suffered by him can be said to be attributable to the service conditions and whether he is entitled to consequential benefits.

13. Let the aforesaid exercise be completed within a period of three months from today.

14. Pending applications also stand disposed of.



15. Order be uploaded on the website of this Court.

NITIN WASUDEO SAMBRE, J

AMIT SHARMA, J

AUGUST 24, 2026/pr/st