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

+ **W.P.(C) 7158/2013 & C.M.No.15408/2013**

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Decided on: 06.08.2015

HC UMAKANT PANDEY

..... Petitioner

Through: Mr.Arun Srivastava, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms.Sushila Narang, Advocate

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE V. K. SHALI

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

1. The petitioner's grievance is that he has been denied service benefits and not treated as having spent the period of absence on duty. He has suffered IED blast injuries on 09.04.2009 when deployed on Assembly Election duty in Jharkhand. As a consequence of his injuries he had to be hospitalised between 09.04.2009 to 31.05.2013. The grievance is that by order dated 03.06.2013 the respondents only regularised a certain period of time i.e. the relevant part of order is extracted below:

“ XXXX XXXX XXXX XXXX

3. *Now as approved by Competent Authority the hospitalization period of 1514 days w.e.f. 09.04.2009*

to 31.05.2013 in respect of No.88001179 HC Umakant Pandey 'A' coy of this unit presently attached with BSF Hospital-I are hereby regularised as under for showing compliance of IAP during review:-

- (v) 28 Months (ie 840 days) hospital leave w.e.f. 09.04.2009 to 27.07.2011, for which leave salary should be given to individual as under:-
 - a. Leave Salary for the first 120 days will be the full pay.*
 - b. For the remaining period it will be equal to leave salary during half pay leave i.e. 720 days.**
- (vi) 224 days commuted leave w.e.f. 28.07.2011 to 07.03.2012 (commuted from 448 days HPL)*
- (vii) 152 days EL w.e.f. 08.03.2012 to 06.08.2012*
- (viii) 298 days EOL on medical ground w.e.f. 07.08.2012 to 31.05.2013."*

2. Learned counsel relies upon a circular issued by Ministry of Home Affairs, Central Government dated 25.09.2014 on the subject. The said circular reads as follows:

"No.II 27012/17/2012-PF-III

Government of India

Ministry of Home Affairs

(PF.III Desk)

North Block, New Delhi-110001.

Dated, the 25th September, 2014

To

The Directors General

AR, BSF, CISF, CRPF, ITBP, NSG and SSB

Shillong (Meghalaya)/New Delhi

Subject: Regarding treatment of hospitalization period as duty in respect of all CAPFs troops injured in action while on duty.

Sir,

I am directed to say that a proposal for treatment of hospitalization period as duty in respect of all Central Armed Police Forces (CAPFs) personnel injured in action while on duty has been considered in this Ministry in consultation with Department of Personnel & Training and Ministry of Finance (Department of Expenditure) and agreed to the same provided the injury/medical condition requiring hospitalization has been sustained in the course of duty.

2. This issue with the approval of Department of Personnel & Training vide their I.D.No.13017/3/2011-Estt.(L) dated 18.9.2014 and concurrence of IFD of this Ministry vide their CF.No.3121380/Fin-II/14 dated 25.9.2014.

Yours faithfully,

(Gracy James)

Under Secretary to the Govt. of

India

Copy to :-

1. Department of Personnel & Training, Establishment (Leave) Section with reference to their I.D.No.13017/3/2011-Estt.(L) dated 18.9.2014

2. The FAs, AR, BSF, CISF, CRPF, ITBP, NSG and SSB.”

*3. Reliance is also placed upon the previous order of this court dated 10.04.2015 in W.P.(C) 4017/2014 in **Ram Sewak Ray vs. Union of India***

& Ors. The facts there were similar to the present case. The Court had taken on record an assurance that the period of hospitalisation would be treated as entitlement to leave salary and issued appropriate directions. Having regard to the undisputed facts evident from the impugned order itself, the period of hospitalisation is directed to be treated as having been spent on duty and all consequential benefits i.e. leave salary, service benefits including reckoning the said period for the purpose of pension shall be taken into account. If any amounts have been withheld, the same shall be released. Consequential orders shall be made by the respondents within six weeks from today.

4. The petition and the pending application are disposed of in the above terms.

S. RAVINDRA BHAT, J

V. K. SHALI, J

AUGUST 06, 2015

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