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

+ W.P.(C) 7949/2015

CHITRASEN PATHAK

..... Petitioner

Through: Mr. Hara Prasad Sahu, Advocate
versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms. Bharathi Raju, CGSC

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R

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02.02.2016

CM APPL. 3665/2016 (by the petitioner for directions)

1. The present application has been filed by the petitioner in a writ petition that was disposed of vide order dated 21.08.2015, praying *inter alia* for staying the operation of the Movement order dated 10.12.2015, issued by the respondent No.2 on the ground that he has been undergoing treatment under the directions of this Court and his movement will adversely affect his treatment.

2. In the writ petition as filed by the petitioner, he had prayed that the earlier Movement order dated 06.07.2015 issued by the respondents be set aside and he be sent to the Medical Board for a detailed examination to evaluate his exact medical category. Counsel

for the respondents, who had appeared on advance notice, had submitted that the Review Medical Board had undertaken the exercise and furnished a report dated 03.07.2015. On hearing both sides, the predecessor Bench had opined that the petitioner's basic grievance had remained unattended and unaddressed because he was never examined in this regard by the Medical Board.

3. Accordingly, the respondents were directed to ensure that the petitioner is examined for appropriate evaluation of his medical category by the same Medical Board which would take into consideration all his records and obtain the opinion of a Neuro Surgeon. The said process was directed to be completed within four weeks after putting the petitioner to notice and the result was directed to be conveyed to him. Till then, the Movement order dated 06.07.2015 was kept in abeyance and made subject to the medical evaluation.

4. Counsel for the respondents, who appears on advance notice, states that in terms of the order dated 21.8.2015 the Medical Board had convened on 03.11.2015 and had given an opinion dated 04.11.2015 placing the petitioner in a low medical category (P3) as per SHAPE system and advised that he is fit for sedentary duties not

involving undue stress. She submits that the Medical Board had included a Neuro Surgeon and keeping in mind the said opinion, a fresh Movement order dated 10.12.2015 has been issued to the petitioner.

5. Counsel for the respondents has produced the records of the medical proceedings conducted in respect of the petitioner, which have been perused by us and we are of the opinion that there is no justification for staying the operation of the Movement order dated 10.12.2015, particularly when the earlier Movement order dated 6.7.2015, impugned by the petitioner was stayed vide order dated 21.8.2015 subject to the outcome of the petitioner's Medical evaluation.

6. In this view of the matter, we are not inclined to entertain this application, which is accordingly disposed of.

7. At this stage, learned counsel for the petitioner states that the petitioner has applied to AIIMS, Delhi for an appointment with a Neuro Surgeon in terms of a reference dated 09.11.2015 issued by the Base Hospital of the respondents at Delhi and the said appointment has been given for 09.02.2016, which is in the next week. He requests that the respondents be directed not to take any coercive action

against the petitioner for joining his place of movement at Arunachal Pradesh for a period of one week.

8. Ordered accordingly. The petitioner is permitted to consult the Neuro Surgeon at AIIMS, Delhi on 9.2.2016 and thereafter proceed from Delhi on 10.2.2016 to join his place of duty in terms of the Movement order dated 10.12.2015.

DASTI to parties.

HIMA KOHLI, J

SUNIL GAUR, J

FEBRUARY 02, 2016
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