

CWP-22017-2013(O&M)

[1]

In the High Court of Punjab and Haryana at Chandigarh.

CWP-22017-2013(O&M)
Date of Decision:09.02.2016

Munish Kumar

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: None for the petitioner.

Mr. V.K. Kaushal, Advocate,
for the respondent.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing letter dated 21.08.2013 and department rehabilitation proceedings dated 20.08.2013 (Annexure P-10 colly).

At the time of issuance of notice of motion, following order was passed by this Court:-

“Notice of motion.

Mr. Aman Sharma, Advocate, who appears for Mr. R.S.Khosla, learned ASG, accepts notice on behalf of the respondents and waives service on them. He prays for and

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is granted time to file reply.

Mr. Anand undertakes to supply 5 sets of the paperbook to Mr. Khosla during the course of the day.

To be heard along with CWP No.21973 of 2013 in which similar issue has been raised.

Interim order in the same terms as in CWP No.21973 of 2013.

List on 7.12.2013.”

In CWP No.21973 of 2013, following order was passed at the time of issuance of notice of motion:-

“Contentends that those who fall in category 2(B) of SO 4 of 2011 which deals with rehabilitation of Force personnel are to be given full medical treatment in terms of para. 4 of the said SO. If the nature of the injuries is such that will impede in the performance of the normal duties in CRPF, such injured personnel after medical traetment are to be sent to Departmental Rehabilitation Board. The Board would then critically examine and determine that in view of the physical injury, whether the injured can be rehabilitated within force by assigning jobs as mentioned in para. 7 and 8 of the Standing Order and if he is not found fit for any kind of duty, he is to be recommended to be invalided out of service. However, before a person is invalidated of service by virtue of injury incapacitating him for continuance in service, then a category (B)

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of para. 2 personnel will be retained upto 10 years in service to make him eligible for invalidation pension subject to limitation imposed in terms of rule 38 of CCS (Pension) Rules but only after providing them vocational training from vocational training institute as per their physical condition/health if they desire so. For purposes of vocational training, Standing Order No.4 of 2005 comes into play. There is a special training institute known as Queen Mary Technical Institute (QMTI) established in 1917 to give training to disabled soldiers and Ex-servicemen. The object of SO No.4 of 2005 is to enable an injured personnel to rehabilitate himself for civil service. While undergoing rehabilitation training, such personnel are to be paid their salaries till such time, the decision is taken by the competent authority that the injured is sufficiently trained to seek employment elsewhere.

In the case of the petitioner, he is undergoing treatment in PGI, Chandigarh duly referred by the respondent department.

Mr. Anand Submits that the nature of the injuries is such, that entitles him to be retained in service. The respondents have recommended invalidation out of service contrary to para. 2(B) read with SO 4 of 2005 by departing from due procedure.

Notice of motion.

Mr. Aman Sharma, Advocate, who

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appears for Mr. R.S.Khosla, learned ASG, accepts notice on behalf of the respondents and waives service on them. He prays for and is granted time to file reply.

Mr. Anand undertakes to supply 5 sets of the paperbook to Mr. Khosla during the course of the day.

In the meantime, status quo as on today be maintained till further orders.

List on 7.12.2013.”

Learned counsel for the respondents has submitted that matter is still pending before the Medical Board and petitioner has been provided light duty. At this stage, there is no proposal to relieve the petitioner. Decision as to whether the petitioner is to be provided heavy duty or light duty or invalidated from service would be taken after the receipt of the decision of the Medical Board.

In view of the submissions made by learned counsel for the respondents, no ground for further interference by this Court, is made out.

Petition stands disposed of, accordingly.

February 09, 2016
kapil

(SABINA)
JUDGE