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

+ W.P.(C) 988/2016

GOVIND BALLABH

..... Petitioner

Represented by: Mr.Himanshu Mehra,
Advocate.

versus

UOI AND ANR

..... Respondents

Represented by: Mr.Vikram Jetly, Advocate
with Mr.Arvind Sharma,
Deputy Commandant/BSF.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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01.08.2016

CM No.26967/2016

Allowed subject to all just exceptions.

CM No.26966/2016

1. Notice. Counsel as above accepts notice for the respondents.
2. For the reasons stated in the application the order dated July 12, 2016 is recalled and the writ petition is restored for hearing.
3. Application is disposed of.

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1. Appointed as a Constable in BSF, while on active duty, due to a grenade blast the petitioner received grievous injuries. The right leg had to be amputated. The petitioner was paid a disability compensation in sum of

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₹1,76,576/-. Serving for a few years thereafter the petitioner was opined to be suffering from such disability which necessitated his invalidation from service. The Department proceeded to invalidate the petitioner and paid him the pensionary dues. The petitioner claims entitlement to be paid disability pension and not invalid pension. The response of the respondents is that the Central Civil Services (Extraordinary Pension) Rules apply to all persons paid from civil estimates other than those whom the Workmen Compensation Act, 1923 applies.

2. Unless the petitioner challenges the vires of Rule 2 of Central Civil Services (Extraordinary Pension) Rules no relief can ensue to the petitioner.

3. Learned counsel for the petitioner seeks leave to withdraw the writ petition with right of the petitioner reserved to file a fresh petition claiming disability pension after challenging the vires of the Rule, existence whereof stands as a wall in front of the petitioner.

4. Granting permission as prayed for with liberty granted, the petition is dismissed as not pressed.

5. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 01, 2016
'st'