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

+ W.P.(C) 1047/2006

ROHTAS SINGH

..... Petitioner

Through: Mr. Shivendu Gaur, Advocate

versus

U.O.I & ORS

..... Respondents

Through: Mr. Vivek Goyal, CGSC with
Mr. Prabhakar Srivastav, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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28.03.2016

1. On the last date of hearing, counsel for the respondents was directed to produce the medical records of the petitioner, particularly, in the light of the Disability Certificate dated 03.02.2003, issued by the District Disability Rehabilitation Centre, Silchar Medical College, Silchar, wherein his disability had been rated 40%, vis-a-vis the Medical Board proceedings dated 19.03.2003, held by the respondents, wherein his case was recommended under GREF III TY/PMT. Counsel for the respondents had also sought time to state as to whether the respondents/GREF has been granted any exemption from application of The Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, as contemplated under Section 47 of the said Act.

2. Today, Mr. Goyal, counsel for the respondents points out that when the present petition was listed for admission on 25.01.2006, 'Rule DB' was issued by confining the petition to the question of disability assessed in respect of the petitioner and whether it should be 40% or 20%. He states that in view of the limited scope of the present petition, the relief prayed for by the petitioner at prayer clause (b) does not survive.

3. We have perused the order dated 25.01.2016 and accordingly, confine the petition to prayer(a).

4. As for the assessment of the petitioner's disability, counsel for the respondents hands over a Disability Certificate dated 23.08.2004, issued by the respondents, wherein his disability has been assessed at 20%. The said document is taken on record. Counsel for the respondents has been requested to clarify the basis of arriving at 20% disability in respect of the petitioner. He submits that the medical records of the petitioner are not readily available and he would need some time to produce the same as they are at Mizoram.

5. In the absence of any justification for assessing the petitioner's disability at 20% and further, in the light of the Disability Certificate dated 03.02.2003 issued by the Silchar Medical College, we are of the opinion that it is a fit case where the petitioner should be medically re-examined by a Medical Board and the extent of his disability of the left foot be assessed afresh.

6. Accordingly, the present petition is disposed of by quashing the Disability Certificate dated 23.08.2004 issued by the respondents. The respondents are directed to have the petitioner medically examined before a newly constituted Medical Board. The Disability Certificate dated

03.02.2003 issued by the Silchar Medical College shall be placed before the said Medical Board which shall take a fresh view as to the extent of disability suffered by the petitioner on his left foot. The respondents shall give a written notice to the petitioner giving him sufficient time to appear before the Medical Board. The petitioner's assessment before the Medical Board shall be completed within eight weeks. If the petitioner's disability of the left foot is assessed by the Board at over 20%, then he shall be paid such compensation as may be found due to him. He shall also be entitled to receive interest @ 12% for the differential amount, from the date when higher compensation became due and payable, till realisation.

7. The petition is disposed of.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 28, 2016

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