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

+ **W.P.(C) 10170/2016**

ROOPI SINGH

..... Petitioner

Through Mr. Satish Chand Gupta & Ms. Swati,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through Mr. Akshay Makhija, CGSC along
with Mr. Shivi Sanyam & Mr.
Sumant Bhushan, Advocates & Mr.
Arvind Sharma (DC-2AW) BSF for
UOI.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **15.11.2016**

This writ petition has been filed by the petitioner, a constable of the Border Security Force presently posted in the 25th Battalion BSF, Chhawla Camp, Najafgarh, Delhi questioning an order of transfer.

According to the petitioner, while he was posted in the 137th Battalion BSF in West Bengal, he suffered a fall, as a result of which, his left hip bone was fractured. This happened in March, 1997. In June 1997, 137th Battalion of the Border Security Force moved to Jammu and Kashmir. According to the petitioner, he was referred to the BSF Base Hospital in Srinagar

from where he was again referred to the Army Hospital (92 Base Hospital at Srinagar).

Thereafter, the petitioner was referred by the 92 Base Hospital, Srinagar to Delhi. The petitioner was granted leave and was operated in June, 1998 at the Lok Nayak Jai Prakash Narayan Hospital. According to the petitioner, the doctor who performed the operation advised the petitioner to go through the yearly check-up. It is pleaded that the doctor advised “considering the problem of the patient, it is not advisable for the patient to work at hill areas and on uneven grounds patient is not fit for prolonged walking, heavy weight lifting or unstaring. The patient can perform only light duties and indoor official works rather than heavy duty of field work”.

This advice was given about 16-17 years ago at the time when the petitioner underwent the operation and/or while he was under post-operative care. The petitioner was posted to Delhi in June, 2010 in the 25th Battalion, Chhawla Camp, Najafgarh, New Delhi, at his own request. According to the petitioner, he has been under the treatment at the Lok Nayak Jai Prakash Narayan Hospital, New Delhi since 2010. The petitioner apparently underwent a hip replacement surgery in April, 2016. Seven months have lapsed since the petitioner underwent the hip replacement surgery.

There can be no dispute that the petitioner is in transferable service. Transfer cannot indefinitely be resisted on the ground of health problems. The petitioner is eligible for voluntary retirement. If he so chooses, he might apply for voluntary retirement.

Pursuant to the directions of this Court, the representation of the petitioner was considered and the same has been rejected by a reasoned

order dated 15.11.2016. A copy of the order has been made over in Court and the same may be taken on record.

It appears that it has been decided to transfer the petitioner to Jammu where adequate health care facilities are available. Needless to mention that the petitioner shall be provided with all necessary health care facilities and in case of requirement, he shall also be granted medical leave and such other leave as might be admissible to him, to enable him to pursue, if required, follow-up treatment at the Lok Nayak Jai Prakash Narayan Hospital, where he is presently undergoing treatment.

The respondent authorities shall grant the petitioner a little time to join the post to which he has been transferred, considering his medical condition. The petitioner shall positively join the post to which he is transferred within 31.12.2016.

The writ petition is disposed of accordingly.

CM No. 40207/2016 (stay)

Dismissed as infructuous.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

NOVEMBER 15, 2016

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