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

+ **W.P.(C) 10197/2016**

EX CAPT RAJU CR Petitioner
Through: Mr. S.S. Pandey, Adv.

versus

UNION OF INDIA AND ORS Respondents
Through: Ms. Barkha Babbar, Adv. with
Mr. Akhil Suri, Adv.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **26.10.2016**

CM. Nos. 40307/2016 & 40308/2016 (for exemptions)

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

W.P.(C) 10197/2016

1. At request of learned counsel for the parties, the present petition is taken up for final disposal.

2. It is the petitioner's case that he has been summoned vide two orders dated 4th October, 2016 and 19th October, 2016 to report to Sainik Military Hospital, Secunderabad-15 by 24th October 2016 for completion of the proceedings against him apropos his alleged desertion from the army ranks. The learned counsel for the petitioner submits that the petitioner's application for bail, pending since 19th October, 2016, could not be heard by the Armed Forces Appellate Tribunal ('Tribunal') due to lack of requisite

quorum of the Tribunal. Similarly, his application for stay of the aforesaid orders also, could not be adjudicated upon for the same reason. The petitioner's mother is stated to be suffering from serious medical ailments, including uncontrolled hypertension for quite some time, the petitioner is her only attendant and she cannot manage without his assistance.

3. The petitioner is alleged to have deserted the Army over a decade ago. Consequent proceedings against him were initiated only a few months earlier. He seeks a stay of the orders only till 03rd November, 2016 so that his applications are heard by the Tribunal especially in view of his aforesaid personal exigency.

4. The Court is of the view that since the petitioner's applications could not be heard for the reasons beyond his control, he should not be adversely affected nor should he be rendered remediless. Furthermore, at least till 01st November, 2016 the Courts are closed for the ensuing holidays. Therefore, in the aforesaid circumstances, the impugned order is stayed till 03rd November, 2016.

5. The writ petition is disposed of in the above terms.

CM. NO. 40309/2016 (for Stay)

6. Dismissed as infructuous.

INDIRA BANERJEE, J

NAJMI WAZIRI, J

OCTOBER 26, 2016/jg

W.P.(C) 10197/2016

Page Nos. 2/2