

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 10186 OF 2017

Service No. IC-49112K,
Colonel Pankaj Bhargava

.....Petitioner

V/s.

Union of India and Ors

....Respondents

Mr. M. V. Chavan for the petitioner.

Mr. Anil C. Singh ASG a/w Ms. Indrayani Deshmukh for the respondents.

**CORAM : NARESH H. PATIL &
Z. A. HAQ, JJ.**

DATE : 18th SEPTEMBER 2017.

P.C.

1 The petitioner herein questions the order passed by Director General of Medical Services (Army) (DGMS) vide communication dated 25/08/2017. The petitioner prays for discharge from Command Hospital. The counsel appearing for the petitioner submits that the petitioner has been made to stay in the hospital. He is undergoing dialysis thrice a week.

2 It is the case of the petitioner that he is an Army Officer in the rank of

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Colonel, posted at Head Quarter, Chief Engineer, Southern Command, Pune Maharashtra. Petitioner filed OA No. 113 of 2017 before Armed Forces Tribunal, Regional Bench at Mumbai. By an order dated 24/08/2017, the Tribunal adjourned the matter without assigning a particular date. The counsel appearing for the petitioner submits that at present Bench is not available and the charge is with Bench at Kochi. As the petitioner is not able to take necessary steps to press for the relief before Kochi Bench, he has approached this Court by filing present petition.

3 The learned counsel appearing for the petitioner made a limited request to the Court that till the Bench of Armed Forces Tribunal, Regional Bench at Mumbai hears the petitioner in OA No. 113 of 2017, final order in the invalidation proceedings initiated by the respondent shall not be passed. The counsel made further request on instructions of the petitioner that he be permitted to take necessary medical treatment at private hospital at Chennai. He submitted that petitioner has received some oral communication. Petitioner is making efforts to get a donor so that he undergoes a kidney transplant.

4 The learned ASG appearing for the respondent on instructions of the officer present submits that petitioner's condition is deteriorating. Taking into consideration medical condition of the patient and the Army Rules and Regulations framed in this behalf, invalidation proceedings had already initiated. The counsel makes a statement that till the Bench of Armed Forces Tribunal, Regional Bench at Mumbai hears the matter, final order under the invalidation proceedings will not be passed by the respondents.

5 On the petitioner's second request, the counsel appearing for the respondent submits that on petitioner's submitting an application to the effect that he would be permitted to get the discharge from the hospital for getting medical treatment at private hospital at Chennai, Medical Officer would take appropriate decision at the risk of the petitioner.

6 The counsel appearing for the petitioner submits that such an application would be tendered by the petitioner at the earliest, if not tendered earlier. In case, application is already filed and pending before Authorities,

respondent would deal with the same.

7 It is clarified that we have not expressed any opinion on the merits of either of the two issues raised by the petitioner before this Court as the issue concerning invalidation of the petitioner is seized with the Tribunal.

8 With these directions, petition stands disposed of.

9 Parties to act on authenticated copy of this order.

[Z. A. HAQ, J.]

[NARESH H. PATIL, J.]