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

+ **W.P.(C) 7331/2017**

RAM NIWAS

..... Petitioner

Through Ms. Saahila Lamba, Advocate.

versus

UNION OF INDIA AND ANR

..... Respondent

Through Mr. Gaurav Rohilla, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **25.08.2017**

With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal as a short issue regarding movement order arises for consideration.

2. The petitioner, who is working as an Assistant Sub-Inspector in the Border Security Force, was posted at Headquarters in Delhi on 24th May, 2013. It is stated that the petitioner is performing duties as a driver.

3. The petitioner was transferred to Battalion No.1 at Aizwal, Mizoram on 4th August, 2017.

4. The petitioner submits that he had undergone a knee surgery on 11th April, 2017 and is not in a condition to travel and is still undergoing treatment including physiotherapy at Sports Injury Centre, Safdarjung Hospital.

5. In view of the aforesaid position, we had asked the counsel for the respondents to obtain instructions vide order dated 23rd August,

2017.

6. Counsel for the respondent states that the petitioner has been in Delhi for more than 4 years as against 3 years tenure of static location prescribed in terms of Rule 5 of the Border Security Force (Tenure of Posting and Deputation) Rules, 2000. Delhi is a static location. Further, the petitioner was promoted in 2015 and hence, under Rule 9, he should have been transferred earlier.

7. Counsel for the petitioner has stated that the petitioner in view of his medical condition is required to be in Delhi at least till the end of November, 2017.

8. We would hesitate to opine on medical condition for obvious reason and call upon the respondent to get the petitioner medically examined. In case the doctors feel that the petitioner is in a fit condition to travel to Aizwal, Mizoram, the petitioner would comply with the movement order and report for duty at Aizwal, Mizoram. However, in case, the doctors feel that the petitioner is not in a position to travel and report for duty at Aizwal, Mizoram, suitable orders would be passed. Till the decision of the medical board/doctors, the movement order would not be given effect to.

9. With the aforesaid directions, the writ petition is disposed of.

Dasti under signature of the Court Master.

SANJIV KHANNA, J.

NAVIN CHAWLA, J.

AUGUST 25, 2017/NA