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

+ W.P.(CRL) 17/2018

SUDHA SHUKLA

..... Petitioner

Through: Mr. Ajay Veer Singh with Ms. Divya
Garg, Advocates

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Gaurang Kanth, CGSC with Mr.
Deepak Kumar, CRPF

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

07.08.2018

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The petitioner has preferred the present writ petition to seek a writ of habeas corpus for production of her husband, namely Shri Om. Prakash Shukla. Shri Om Prakash Shukla was serving in the Central Reserve Police Force (CRPF). He was a NSG Commando. It appears that Om Prakash Shukla was psychologically disturbed. He even received treatment, inter alia, at NSG Hospital, Manesar, Gurgaon. The petitioner's husband was posted at CRPF, Srinagar, Jammu and Kashmir. He reported at Srinagar on 03.08.2011.

On 04.11.2011, while the petitioner's husband was sent to Composite Hospital, CRPF, Bantalab, Jammu for medical examination along with an attendant— Mr. Amit Kumar, he went missing. The fact that he went missing was reported at the local police station vide a complaint made on the same

day to the SHO, PS Chinoor, Srinagar, Jammu and Kashmir.

The original record which has been produced before the Court shows that a signal was also issued to all the formations about Om Prakash Shukla going missing on 04.11.2011 itself.

On 06.11.2011 a communication was issued by the Commandant-144 Battalion, CRPF to Smt. Shakuntla Shukla– the mother of Om Prakash Shukla informing her that Om prakash Shukla had been sent for medical review/ medical check up to Group Centre Hospital CRPF Bantalab, Jammu along with one attendant from the Battalion. She was informed that Om Prakash Shukla had become a deserter on 04.11.2011 from the Group Centre, CRPF Bantalab, Camp Compound. It was stated that the attendant searched and looked for Om Prakash Shukla in the Group Centre Compound and in the surrounding areas but no clue could be found. Smt. Shakuntla Shukla was requested to inform whether Om Prakash Shukla has reached his home or not. She was also requested in case he has reached home, he may be sent back to the Battalion Headquarters otherwise disciplinary action would be taken against him.

According to the respondent, they received a communication from Om Prakash Shukla under his signatures on 07.12.2011 wherein he stated that he is suffering from mental ailment and he is taking treatment for the same. He stated that once he is fit, he would report for duty. The original record which has been produced before us shows that the said communication was received through speed post and it had been posted from B.S. Market with Pin Code 110001, which shows that the same was posted from Delhi.

The respondents have filed an additional affidavit dated 21.07.2018 which shows that Om Prakash Shukla received treatment at Deen Dayal Upadaya Hospital, Hari Nagar, New Delhi on 14.11.2011 in the Psychiatry Department under Dr. P.Dayal. The relevant extract from the OPD register of the said hospital is placed on record along with forwarding letter dated 26.03.2018 by the said hospital which confirms that a patient with the name of Om Prakash Shukla had attended the hospital in Psychiatry Department on 14.11.2011.

From the counter affidavit of the respondents it appears that following the disappearance of Om Prakash Shukla, proceedings were initiated as per rules. Warrants were issued for his arrest and a court of inquiry was also held and he was eventually removed from service on 07.02.2012. The said order was communicated at the residence of Om Prakash Shukla.

The submission of Mr. Singh, learned counsel for the petitioner is that the petitioner's husband— who was a NSG commando, had gone missing is a matter of serious concern. He submits that the manner in which the respondent CRPF has gone about looking for Om Prakash Shukla leaves much to be desired, and raises a suspicion of foul play. He submits that the respondents should be directed to conduct an enquiry into the disappearance of Om Prakash Shukla.

On the other hand Mr. Kanth submits that the present petition has been filed only in December 2017, even though the petitioner's husband went missing on 04.11.2011. The said delay is unexplained and the possibility that the present petition has been filed only to claim pension, cannot be ruled out.

The facts which emerge from the record show that the disappearance of the petitioner's husband- Om Prakash Shukla was apparently on account of his mental illness. He went missing from Composite Hospital, CRPF, Bantalab, Jammu on 04.11.2011. The fact of the petitioner's husband going missing was reported at the local police station, and also to all formations on the same day. Thereafter, Om Prakash Shukla sent a communication stating that he is receiving treatment for his mental illness and that he would report for duty once he is fit. The said communication stands corroborated by the medical record of Deen Dayal Upadaya Hospital which shows that the petitioner's husband received treatment on 14.11.2011 in the Psychiatry Department of the said hospital. It is not the petitioner's case that thereafter the petitioner's husband again reported at his Battalion Headquarters.

This being the position, we are satisfied that the respondents are not responsible for the disappearance of the petitioner's husband and they are not responsible to produce him.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

I.S.MEHTA, J

AUGUST 07, 2018
N.Khanna