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

+ **W.P.(C) 7627/2019 and C.M.No.31758/2019 (Stay)**

SURAJ BHAN

..... Petitioner

Through: Mr.Himanshu Kaushik, Ms.Ritika
Gautam, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.J.K.Singh, Standing Counsel with
Mr. Varun Bhadola and Mr. Saurabh
Sharma, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

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ORDER
02.09.2019

1. The Court has been shown the records of the Suitability Committee which held a meeting on 7th May, 2019. It indicates that in respect of the present Petitioner the recommendation was that he should be redeployed as Tech-III/Painter/C&W.

2. In response to a pointed question whether the present medical status of the Petitioner was taken into account, learned counsel for the Respondents states that what is available on the record is only the Committee's recommendations. In other words, there is nothing to indicate that before

allocating the Petitioner to the above post the Committee took into account any report of the Petitioner's present medical condition.

3. What is available in this regard is the report dated 22nd October, 2007 of a Four Member Medical Board which examined the Petitioner and which recommended as under:

“ In view of the atrophy and weakness of muscles in right lower limb and limping gait, member of the Medical Board are of the opinion that he is not fit as Constable/RPSF. However, he is fit for any alternate job in Medical categories Bee one and below where brisk walking and running is not required.”

4. The Court is of the view that since the above medical certificate is twelve years old, it was incumbent on the Respondent, before allocating him a specific post in 2019 to have subjected him to a fresh medical examination by a Medical Board of experts appropriate to his specific medical condition.

5. In that view of the matter the impugned order dated 28th June, 2019 issued by the Commanding Officer, 6th Battalion, RPSF (DBSI) is directed to be not acted upon. In other words although the Petitioner may have been appointed at the DRM's office, and may have reported for duty there, he shall not be asked to perform the tasks of Tech-III/Painter/C&W but given some other non-strenuous/suitable tasks similar to the one which he was performing prior to the impugned order being passed i.e. of a record keeper.

6. It is directed that the Petitioner be examined by a newly constituted Medical Board which will give its report not later than four weeks from today. On the basis of the said report the Respondents are directed to take a

decision afresh on a suitable post to be allocated to the Petitioner. It is made clear that the task in the said post should not be more strenuous than what the Petitioner has been performing in the record keeping section. Secondly, the pay he was drawing in the record section must be protected.

7. The petition is disposed of in the above terms. The pending application also stands disposed of. Copy of the order be given *dasti* under signature of the Court Master.

S. MURALIDHAR, J.

TALWANT SINGH, J.

SEPTEMBER 02, 2019

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