

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

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W.P.(C) 3017/2014

MOHD. ISLAM BAITHA

..... Petitioner

Through: Mr R.K. Shukla, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Vivekanand Mishra, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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05.09.2019

1. The short question here is whether the Petitioner is entitled to Patient Care Allowance ('PCA').

2. Admittedly, the Petitioner is a Head Constable/General Duty ('HC/GD') with the Indo Tibetan Border Police Force ('ITBP').

3. When this matter was initially heard on 5th February, 2015, the following order was passed:

"1. None appears for the petitioner even at the second call.

2. Petitioner joined service in ITBP in the general duty cadre as a Constable (GD) and earned a promotion. He claims entitlement to be paid hospital patient care allowance as per a decision taken by the Government on the plea that from 1997 till 2013 he did duties of a Medic.

3. Counter affidavit filed would inform us that the petitioner continues to be in the cadre of general duties. As were other force members, even petitioner was given basic training in first aid for about 3½ months for the reason in case of emergencies such training comes

useful. The petitioner cannot therefore claim to be a professionally trained Medic.

4. Conceding that sometimes service of the petitioner was used as a first aider, entitlement of the petitioner to patient care allowance is disputed.

5. In spite of opportunities granted on August 29, 2014 and November 14, 2014 rejoinder has not been filed. 6. It is doubtful whether the petitioner would be entitled to any relief on account of the facts noted hereinabove, but since none appears for the petitioner even at the second call we dismiss the writ petition in default.

7. No costs.”

4. Subsequently, after restoration of the petition, on 11th February 2016, the following order was passed:

“1. The petitioner, who is working at the post of Head Constable (GD) seeks a direction to the respondents to implement the order dated 22nd August, 2008 issued by the Ministry of Home Affairs, Government of India and the Memorandum dated 4th February, 2013 for grant of HPCA/PCA.

2. Enclosed with the additional counter affidavit filed by the respondents on 1st November, 2015 is the letter dated 1st December, 2014 issued by the respondents No. 2 to 4- ITBP stating inter alia that pursuant to the office order dated 9th May, 2013, PCA issued to four persons, named in the said letter, has been cancelled with immediate effect and amounts paid to them have been directed to be recovered.

3. It has been specifically inquired from the learned counsel for the respondents as to whether the orders dated 22nd August, 2008 and 4th February, 2013, relied upon by the petitioner, have been withdrawn by the respondents and if so, the orders to the said effect be placed on record. Further, the respondent-ITBP is directed to place on record copy of the office order dated 9th May, 2013, referred to in the letter dated 1st December, 2013, enclosed as Annexure-R1.

4. Needful shall be done within two weeks, with copy to the counsel

for petitioner.

5. List on 22nd March, 2016.”

5. Thus, it would be seen that this Court took note of the fact that the order granting the PCA to the four HCs/GD stood withdrawn by the aforementioned order dated 1st December, 2014. Therefore, the Petitioner can no longer have a grievance about being discriminated against.

6. As far as the order dated 9th May, 2013 is concerned, a copy thereof has been placed on record with the further additional affidavit dated 21st March, 2016. In view of the fact that the PCA granted to the four HCs/GD figuring at serial numbers 17 to 20 of the order dated 9th May 2013, stands withdrawn by the subsequent order dated 1st December, 2014, no case is made out by the Petitioner for the grant of PCA to him.

7. In that view of the matter, the petition is dismissed. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J

SEPTEMBER 05, 2019

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