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

+ **W.P.(C) 6416/2018**

SITA RAM

..... Petitioner

Through: Mr.A.K.Trivedi, Advocate with
Mr.Naveen Kumar and Mr.Ashish
Gupta, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Gigi C.George, Advocate with
Mr.Vinod Tiwari, Advocate for R-1
to R-3.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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05.11.2019

1. The original medical record has been perused. It is seen that the Petitioner was posted at the formal post in Dumchowk Leh without the mandatory gap of one week between two postings. This is not even disputed by the learned counsel for the Respondents. However, the Medical Board which prepared its report dated 5th June, 2014, does not appear to have taken note of this factor at all and has simply observed vaguely that his “condition may be aggravated due to stressful service conditions and deployment at High Altitude”.

2. With the record clearly showing that he was not given the mandatory rests, the Petitioner’s case that his medical condition is attributable to the

service rendered by him during his posing at Leh is more than probable. The objection of the Respondents that the Petitioner did not challenge the medical report till 2017 is untenable given that the Petitioner was posted at various remote locations, not making it easy for him to do so.

3. The Court accordingly sets aside the impugned order dated 23rd January, 2017, whereby it has been held that the brain haemorrhage that the Petitioner suffered did not occur under the circumstances set out in para 4.14 of the guidelines issued by the Ministry of Home Affairs by U.O. Note dated 31st July, 2007.

4. The Respondents are once again directed to examine the case afresh and decide whether the Petitioner is entitled to promotion by treating his low medical category as attributable to service. This exercise be completed, not later than eight weeks from today and the decision be communicated to the Petitioner.

5. If the Petitioner is aggrieved by the said decision, he may seek appropriate remedies as may be available to him in law. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 05, 2019

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