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

+ **W.P.(C) 12964/2018 and CM APPL. 50278/2018 (stay)**

PRADEEP KUMAR

..... Petitioner

Through: Dr.K.S.Chuhan with Mr.Ajit K.Ekka
and Mr.Ravi Prakash, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.V.S.R.Krishna, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **25.11.2019**

1. The short question in the present petition is whether the failure to post the present Petitioner as Divisional Railway Manager ('DRM') on account of his health condition i.e. having only 1 functional kidney and the other having been transplanted, is an unreasonable one?

2. Learned counsel for the Petitioner urged that there was no medical board to evaluate his medical condition subsequent to the transplant, whereas in his ACRs consistently since 2011-12, his health status has been shown as 'very good' or 'fit'. In other words, his contention is that his health condition is not such as could disentitle him to the post of DRM.

3. On the other hand, learned counsel for the Respondents has drawn

attention to a document which is Annexure 'A-5' to the Petitioner's OA setting out his current medical status and which notes that the officer is still in the low medical category in terms of Army Order 9 of 2011 although he has shown considerable improvement in his physical activities and clinical performance. The further stand of the Respondents is that the posting as DRM is not a promotional post. On the other hand, it is pointed out that the Petitioner has now been granted the Higher Administrative Grade ('HAG'), which is beyond Senior Administrative Grade ('SAG').

4. Given the present health condition of the Petitioner, the decision of the Respondents in this regard cannot be said to be unreasonable. In any event, since the post of DRM is not a promotional post, no prejudice can be said to have been caused to the Petitioner on account of his not being posted as such.

5. The petition is accordingly dismissed. The application is disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 25, 2019

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