

**WPA 3405 of 2020**

**Md. Merazuddin Ansari  
Vs.  
Union of India & Ors.**

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Ms. Manika Roy  
... For the Petitioner

Mr. Alok Kumar Banejee  
Mrs. Tapasi Sinha Palit  
... For Union of India

Affidavit of service filed in Court be kept with the record.

Leave is granted to the learned advocate on record for the petitioner to amend the description of the respondent no. 3 in the cause title of the writ petition.

The petitioner is a member of the Border Security Force. During his service tenure he met with an accident and due to which all his four limbs have completely been paralysed.

The petitioner was posted in Kalyani, Nadia on and from 19<sup>th</sup> July, 2018. The learned advocate for the petitioner submits that the Kalyani unit has since been relocated to Nalkata, Tripura.

The Medical Officer of the 64<sup>th</sup> Battalion BSF, Kalyanni where the petitioner is posted, has mentioned in the remarks column for recommendation for transfer of the petitioner that "He is a case of traumatic spinal cord injury with quadriplegia since March 2015. His all four limbs are completely paralysed. He is completely bed ridden and requires continuous care for his management." The medical officer further records that the petitioner is under treatment at

SSKM Hospital, Kolkata and NIOH Kolkata. Physiotherapy is actively required in his case which is not possible in remote area like Nalkata, Tripura. The said officer further opines that the petitioner is required to be posted in such a location, which is nearby to IPGMER (SSKM) & NIOH.

The petitioner submits that it is not physically possible for him to move to Tripura, where the 64<sup>th</sup> Battalion of BSF has been relocated.

The petitioner made an application by filing a representation on 8<sup>th</sup> February, 2020 seeking extension of leave for one month so that he can move to Tripura for the purpose of joining.

It appears that since thereafter the condition of the petitioner did not improve and he was not in a position to move to Tripura for the purpose of joining.

The petitioner made a further representation dated 13<sup>th</sup> February, 2020 praying for posting at a place which is near to his residence or in the alternative to invalidate him from service with disability pension.

The learned advocate for the petitioner submits that the writ petition was filed in February 2020, but in view of the pandemic situation the same could not be taken up for consideration by the Court.

It has also been submitted that the salary of the petitioner has been stopped on and from April 2020 and all the medical facilities, which he was receiving, has been withdrawn. The petitioner is completely at the mercy of his family members, friends and relatives as the attendant who was attending the petitioner was also withdrawn by the order of the respondent.

It appears from the medical report of the

officer that it is not possible for the petitioner to physically move around independently. All his four limbs have been completely paralysed and the medical officer of the respondent authority opines that the medical facility, which is required for the petitioner, is not available at Nalkata, Tripura.

Posting the petitioner at such a place where the medical facilities which he requires presently is not available is not proper. The opinion of the Doctor has to be looked into sympathetically by the authority before posting or transferring a medically unfit incumbent.

As it appears that the prayer of the petitioner for posting near to his house or in the alternative to invalidate him from service with disability pension is pending consideration at the end of the respondent authority, the Court feels it fit to remand the matter back to the respondent no. 3 being the Additional Director General, Border Security Force, to look into the papers of the petitioner and to consider his prayer in accordance with law within a period of two weeks from the date of communication of a copy of this order.

The opinion of the medical officer shall be carefully considered by the said respondent at the time of consideration of the representation of the petitioner.

The respondent no. 3 shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

WPA 3405 of 2020 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)

