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

+ **W.P.(C) 14962/2021**

BABULAL BEDIYA

..... Petitioner

Through **Mr.Abhindra Maheshwari** with
Mr.Shivam Gupta, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through **Mr.J.K..Tripathi, Advocate for UOI.**

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Date of Decision: 23th December, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVING CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.47242/2021

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

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1. Present writ petition has been filed challenging the Show Cause Notice dated 10th December 2021 passed by the Respondent no.3. Petitioner seeks directions to the Respondents not to terminate the petitioner on the ground of Physical Unfitness. Petitioner also seeks directions to the Respondents to rehabilitate the petitioner as per the standing order dated 28th March 2013 and as per the Office Memorandum dated 07th September 2017 issued by the Ministry of Home affairs, with all consequential benefits.

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2. Learned counsel for the petitioner states that the petitioner was recruited in the post of Constable (General Duty) with respondent- Indo Tibetan Border Police Force and was posted with 45th battalion, Madurai on 08th November 2014. He states that during the course of the training session held on 17th June 2015, the petitioner fell from the height of around 12 feet and sustained serious injuries due to which the petitioner underwent a back operation by an ortho specialist on 23rd June 2015. He further states the petitioner was transferred to 6th battalion Chapra, Bihar in 2019, wherein he is currently posted and discharging his duties.

3. Learned counsel for the petitioner states that the petitioner was issued Show Cause Notice dated 10th December 2021 of discharge from service on the sole ground of physical disability, which occurred during service.

4. He submits that impugned Show Cause Notice is in violation of Standing Order dated 28th March 2013 issued by the Respondent No.2 and the Office Memorandum dated 07th September 2017 issued by the Respondent No.1 which prescribes that the personnel who have suffered disability during service be rehabilitated.

5. Issue notice.

6. Keeping in view the fact that the matter is at the show cause notice stage, this Court directs the respondent No.3 to decide the Show Cause Notice dated 10th December, 2021 in accordance with law. Needless to state that the respondent No.3 while deciding the show cause notice shall keep in mind the Standing Order dated 28th March 2013 and the Office Memorandum dated 07th September 2017.

7. With the aforesaid directions, present writ petition stands disposed of. In the event, the Petitioner is aggrieved by the decision of Respondent No.3, he shall be at liberty to file appropriate proceedings in accordance with law.

MANMOHAN, J

NAVIN CHAWLA, J

**DECEMBER 23, 2021
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