

WPA 23223 of 2022

Ashis Kumar Maity
Vs.
Union of India & Ors.

Mr. Aniruddha Datta
.....for the petitioner

Mr. Atarup Banerjee
Mr. Sukanta Ghosh
....for the respondents.

Affidavit of service filed in court today be retained with the record.

In this writ petition, the petitioner has challenged an extension of his service by the respondent authorities for a period of two years from may 31, 2022 till May 30, 2024.

Mr. Aniruddha Datta, learned counsel appearing on behalf of the petitioner submits that he has prayed for discharge on compassionate grounds since he has physically handicapped child who has been suffering from cerebral palsy with seizure disorder. The petitioner has been stationed in Kolkata since 2018. He submits that the writ petitioner completed 28 years of service on May 2, 2022 and, therefore, he is entitled to discharge on and from May 31, 2022.

The petitioner's service has been extended till May, 2024 without his consent and, therefore, he prayed for discharge on compassionate grounds.

Mr. Atarup Banerjee, learned counsel for the respondents submits that the option to opt for retirement as per the extant policy had to be exercised prior to 8 months of retirement. Since no option was exercised by the petitioner, it was deemed that his case was "a willing one" for extension.

He further submits that considering the medical condition of the petitioner's child, the petitioner was posted to Chandigarh where all the medical facilities would be available for treatment of the child.

This Court finds that an application being OA 89 of 2022 has been made before the appropriate authority being the learned Armed Forces Tribunal, Kolkata Bench for stay/setting aside of the impugned order dated September 13, 2022.

Learned counsel appearing for the respondents does not object the said application being disposed of by the learned Tribunal within a specified period.

Having considered the rival submissions of the parties and the materials placed on record, this Court directs the Original Application being OA No. 89 of 2022 be disposed of by November 30, 2022.

It is made clear that no unnecessary adjournments will be sought for by the respondent authorities.

The reasoned order passed by the learned Tribunal shall be communicated to the petitioner by December 9, 2022.

With the directions aforesaid, the WPA No. 23223 of 2022 is disposed of.

All parties are directed to act on a server copy of this order, duly downloaded from the official website of this Hon'ble Court.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Lapita Banerji, J.)