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

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Date of decision: 05.05.2022

+ W.P.(C) 5995/2022

K.KAILASH MANIK

..... Petitioner

Through: Mr. Saroj Kumar Singh, Advocate

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Farman Ali and Ms. Taha Yasin,
Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T (oral)

1. Vide the present writ petition, the petitioner seeks directions to respondent/CISF not to increase the working hours of petitioner for more than eight hours in a day, further to release the compensation to petitioner for extra working hours and to post him nearby area to his residence due to his health problem.

2. The present petition has been filed on the ground that petitioner is suffering from health issues such as slip disc for which he is also taking treatment from CBD Belapur Apollo Hospital, Navi Mumbai. When the petitioner was posted at CISF Unit ONGC, Mumbai, there were days on

which he had to do 12 hours' duty continuously. Petitioner was posted in the said Unit in 2018 and in the year 2017, he was declared sick force member and was in shape-2 category but due to extra workload, he had reached in shape-3 category. To this effect, petitioner had raised issues regarding health problems and extra working hours of 8-12 hours before DIG, CISF West Area, DG, CISF, Head Quarters, New Delhi and lodged a complaint through grievance cell. Petitioner also issued a legal notice dated 21.10.2021 and received reply dated 15.12.2021 from CISF Department, ONGC, Mumbai, wherein it is stated as under:

“02...Const/GD K Kailash Manik is posted at CISF Unit, ONGC Mumbai since 2018. This CISF Unit has a division of 04 contingents to provide and manage appropriate Plant Security to ONGC. Being an ONGC Plant it is highly sensitive from security point of view, more so because it is a coastal-based unit and there is heightened prevailing security scenario as well as threat perception. Therefore, the onus lies on the CISF to provide foolproof security...”

3. Pertinently, in para 3 of the said reply, it is further stated as under:

“03. No.101630498 Const/GD K Kailash Manik was declared Shape-3 owing to “Ankylosing Spondylitis” and comes under Lower Medical Category (LMC) and he had never been deployed continuously in 12-hrs' duty with arms in any sensitive post, nor any other LMC personnel is deployed for the same. Moreover, despite absence of any specific recommendation of the Doctor for not mounting the person on the duty without arms, the Unit Commander as a humanitarian gesture has allowed him for duty without

arms alongwith other LMC personnel apart from considering safety measures and appropriateness of duty.”

4. Further, in para 4 of said reply, it is mentioned as under:

“04..... ONGC Management has provided very good medical facility and maximum super-speciality Hospitals are placed in the panel of ONGC Management and CISF personnel of this Unit are taking this facility at par with the Management. Moreso, a large number of CISF personnel are posted in this Unit on medical ground to get optimum medical treatment and your client is also getting good medical treatment regularly. However, he is consistently demanding 8-hrs duty without thinking about the prevailing operational compulsion of the Unit. Moreover, it is pertinent to point out that he is getting the similar amount Salary and Allowances. He is not getting any lesser amount despite being an LMC person. He had been suitably counselled by the supervisory officers of the unit several times explaining the rationale behind deployment of 12-hrs duty (not for everyday) to him along with other LMC Personnel.....”

5. In view of the reply dated 15.12.2020 on behalf of respondents, we find no ground to interfere with the decision of the respondents nor they are directed to post the petitioner in a particular manner.

6. Thus, finding no merit in the present petition, the same is dismissed.

(SURESH KUMAR KAIT)
JUDGE

(SUDHIR KUMAR JAIN)
JUDGE

MAY 05, 2022/rk

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