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

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Date of decision: 07.09.2022+ **W.P.(C) 13011/2022****KAPIL GURJAR**

..... Petitioner

Through: **Mr. Ravi Kumar and Mr. Rohit Pratap
Singh, Advocates**

versus

MINISTRY OF RAILWAYS & ANR.

.... Respondents

Through: **Appearance not given****CORAM:****HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MR. JUSTICE SAURABH BANERJEE****J U D G M E N T (oral)****CM APPL. 39417/2022 (for exemption)**

1. Allowed, subject to all just exceptions.
2. Application is accordingly disposed of.

W.P.(C) 13011/2022

3. Vide the present petition, petitioner is seeking following reliefs:

*“(i) Direct ‘Provisional Appointment’ of Petitioner to the post of Sub-Inspector (RPF, Armed Force of Union), after ex-parte stay of the impugned order dated 08.07.2019, in view of the Judgment of this Hon’ble Court in ‘M. Sreeja K. vs Union of India & Ors.’ (Page XX) and recruitment notification (Page XX) of Armed forces dated 18.08.2020 permitting “LASIK Surgery” and,
(ii) Further direct that in case the Tribunal upholds*



jurisdiction of C.A.T. in pending O.A. 42/2020 titled “Kapil Gurjar vs ministry of Railways & Anr.”, the Tribunal would remain independent to pass such appropriate orders on merit as it deems appropriate in accordance with law without being influenced by the Order of this Hon’ble Court in present W.P.”

4. The brief facts of the present case are that the respondent-Railway notified vacancies for the post of SI, RPF (Railway Protection Force) and pursuant thereto petitioner qualified the written test, physical test and was called for medical test, however, petitioner was rejected in medical examination on ground of having corrected vision by LASIK Surgery.

5. Being aggrieved, petitioner filed O.A. 42/2020 before the Principal Bench, Central Administrative Tribunal, Delhi who after hearing, reserved the same for judgment. Thereafter, the learned Tribunal de-reserved the judgment.

6. Being aggrieved from the aforesaid fact, the petitioner filed W.P.(C) 3604/2021 before this Court seeking expeditious hearing by learned Tribunal, however, the said petition was dismissed. Thereafter, learned Tribunal again heard the aforementioned OA and reserved the same for judgment. Learned Tribunal referred the issues for decision by a Larger Bench. Subsequently, This Court in W.P. (Civil) 1345/2022 directed the learned Tribunal to expeditiously constitute a Larger Bench in O.A. 42/2020 and pursuant to the directions passed by this Court, the learned Tribunal constituted Larger Bench comprising of Member (J.) Chandigarh, Member (A.) Allahabad and Member (J.) Delhi. The Full Bench after hearing the OA filed by the petitioner, reserved the same for judgment. Before delivering the judgment Presiding Member (J.) of Full Bench superannuated without



delivering judgment. Thus, the present petition has been filed before this Court.

7. Keeping in view the aforesaid facts, it is seen that petitioner has become a shuttle among the learned Tribunal of one Bench, Full Bench and this Court. Though it was the bounden duty of the Full Bench when a judgment was reserved, that should have been pronounced before the superannuation of Presiding Member (J.), however, unfortunately, that has not happened.

8. In view of above, we hereby direct the learned Tribunal to constitute a fresh Full Bench within one week from today and conclude the hearing of O.A. 42/2020 pending before it within two weeks thereafter. The learned Tribunal shall deliver the judgment within two weeks after conclusion of hearing.

9. With the aforesaid directions, the present petition is disposed of.

10. Order be given *dasti* under signatures of the Court Master.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

SEPTEMBER 07, 2022/rk