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

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Date of decision: September 27, 2022

+ W.P.(C) 13937/2022

ANISH KUMAR

..... Petitioner

Through: Ms. Palak Rohmetra, Advocate

versus

UNION OF INIDA & ORS.

..... Respondents

Through: Mr. T. P. Singh, Sr. Central Govt.
Counsel and Ms. Priya Mishra, GP
with Major Partho Katyayan, for UOI

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. 42639/2022(for exemption)

1. Allowed, subject to all just exceptions.
2. Accordingly, the application is disposed of.

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3. By way of the present petition, petitioner seeks issuance of a writ of mandamus directing the respondents to release disability pension alongwith arrears to the petitioner since the disability of the petitioner was admittedly attributed to military service as per the report of the Medical Board constituted by the respondent Army and a writ of mandamus directing the respondents to treat this writ petition as a fresh representation and to decide



this representation in a time bound manner.

4. Learned counsel for the petitioner submits that the petitioner was invalidated from service on 04.12.2019 and thereafter he made a representation dated 07.01.2022 seeking release of disability pension with arrears, however, the representation has not been decided till date.

5. Learned counsel for the respondents submits that the present petition is not maintainable in view of Section 3(o) of the Armed Forces Tribunal Act, 2007. He further submits that representation dated 07.01.2022 has been replied vide communication dated 03.03.2022 and the same has been produced before this Court. Copy of the same is also given to the learned counsel for the petitioner.

6. At this stage, learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to file the same before the appropriate forum, if so advised.

7. Accordingly, petition is dismissed as withdrawn.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

SEPTEMBER 27, 2022/rr