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

% ***Date of decision: February 21, 2023***

+ **W.P.(C) 2233/2023 & CM. APPL.8477/2023**

SHRI BALKAR SINGH Petitioner

Through: **Ms. Sudipta Basu and Mr. Rajinder Kumar, Advocates**

versus

UNION OF INDIA AND ORS Respondents

Through: **Mr. Farman Ali, Sr. Panel Counsel with Mr. Krishan Kumar and Ms. Usha Jamnal, Advocates**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Vide the present petition, petitioner prays as under:

“a) Issue a writ in the nature of certiorari or any other appropriate writ, order, or direction for quashing impugned order issued vide Estt./75th Bn/CT Balkar Singh/2021/4239-42 dated 08.06.2022 by the Commandant 75th Bn Cooch Behar, West Bengal proposing retirement of the Petitioner on medical ground due to physical disability and unfitness under Rule 25 of the BSF Rules, 1969 by constituting Medical Invalidation Board Vide Order No. 1626-30 dated 08.04.2022 (not supplied to the petitioner) of Composite Hospital BSF Patgaon.

b) Issue a writ in the nature of mandamus or any other analogous writ to set aside the recommendation/opinion of the medical invalidation board dated 11.05.2022 validating unfitness of the Petitioner for further service in BSF and further directing the Respondents to get a fresh medical assessment of the Petitioner by constituting an impartial and neutral medical board comprising of eminent Psychiatrist, Psychoanalysis and Human Behaviour Specialist at AIIMS, MAMC and/or Institute of Human Behaviour and

Allied Sciences under the direct supervision of this Hon'ble Court.

c) Issue an appropriate writ directing the Respondents to transfer the Petitioner forthrightly in any BSF unit in Delhi NCR at least during the pendency of this petition, so that he can breathe easy in an environment free from any turbulence and victimization which he has been facing on a regular basis at his present place of posting.

d) Award the costs of the present proceedings in favour of the Petitioner and against the Respondents;

e) Pass any other order/relief as this Honourable Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

2. Learned counsel appearing for the petitioner submits that for the aforesaid relief(s), petitioner made representation dated 13.06.2022 which is annexed with the present petition as Annexure P-14, however, till date, the said representation has not been decided by the respondents.

3. In view of above, we hereby direct the respondents to decide the abovementioned representation filed by the petitioner within four weeks from today and communicate the decision thereof to the petitioner within one week thereafter with a reasoned order.

4. Till the decision is taken by the respondents on representation dated 13.06.2022, the service conditions of the petitioner shall remain intact.

5. With the aforesaid directions, the present petition and pending application are disposed of.

6. Needless to say, if the petitioner feels aggrieved by the decision of the respondents on his representation, he may approach the appropriate forum.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 21, 2023/rk

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