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

+ **CONT.CAS(C) 275/2024**

AMITABH KUMAR DUBEY

..... Petitioner

Through: Mr. Abhay Kumar Bhargava,
Advocate with Mr. Satyarth Sinha
and Ms. Anoushka Bajpai, Advocates
Email: abhaybhargava84@gmail.com
Mob: 9015543437

versus

SHRI AJAY KUMAR BHALLA AND ORS.

..... Respondents

Through: Mr. Sushil Kr. Pandey, SPC with Mr.
Kamal Deep, GP.
Mob: 9873588234

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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03.04.2024

1. Learned counsel appearing for the respondent submits that the order dated 8th December, 2023 passed by this Court in *W.P.(C) No. 15814/2023* has been complied with. He hands over copy of a speaking order dated 26th March, 2024 passed by Directorate General, Border Security Force, Ministry of Home Affairs, wherein the petitioner has now been given a posting in Delhi NCR. The said speaking order reads as under:

“Sub: **SPEAKING ORDER IN RESPECTFUL COMPLIANCE OF
THE ORDER DATED 08.12.2023 PASSED BY THE
HON'BLE HIGH COURT OF DELHI, IN WP (C) NO.
15814/2023 TITLED 'AMITABH KUMAR DUBEY VS UOI
& ORS'.**”



Whereas, No. 058770049 Constable (Cook) Amitabh Kumar Dubey of 32 Bn BS (hereinafter the petitioner) filed WP (C) No. 15814/2023 before Hon'ble High Court of Delhi titled "Amitabh Kumar Dubey Vs UOI & Ors", seeking directions for respondents to transfer/attach the petitioner to New Delhi on medical grounds for further treatment by AIIMS, New Delhi. The said WP(C) No. 15814/2023 has been disposed of by the Hon'ble High Court of Delhi vide Order dated 08.12.2023, with the following directions:-

'4. In view of above, we dispose of this petition, directing the respondents to treat the petition as a representation and consider the request of the petitioner in accordance with the Rules and Policy. Decision be taken as expeditiously as possible, preferably within a period of four weeks from today.

2. Whereas, case in brief in respect of the petitioner is that, the petitioner was enrolled in BSF as Constable (Cook) on 29.05.2005. After completion of basic training, the petitioner was posted to 87 Bn BSF and further posted to 32 Bn BSF on 17.05.2017. On 09.08.2013, while the petitioner was deployed in a Company Operating Base (COB) at Karkapal, Distt Bastar (Chhattisgarh) of 87 Bn BSF, slipped in mud caused by rain during fetching firewood for ORs Mess and sustained injury in his right leg. However, he did not report to the authorities at the COB about the injury. Further on 25.12.2013, he proceeded to the SHQ BSF Hospital Durg for self treatment, from where, he proceeded on leave on 10.01.2014. Later on, on 10.03.2014, he felt pain in his right knee and undergone treatment at JLN Hospital Durg (Chhattisgarh). His right knee was operated at Ramakrishna Care Hospital, Raipur (Chhattisgarh) on 05.04.2014. After taking continuous treatment at SHQ BSF, Durg Hospital, the petitioner was further referred to BS Hospital-I, R K Puram (Delhi) for management of treatment from Orthopedics Department of AIIMS, New Delhi on 11.10.2014. On 16.02.2015, after completion of treatment from AIIMS, New Delhi, the petitioner reported at BSF Composite Hospital, Tekanpur, Gwalior (MP) for follow-up treatment and his right knee was again operated at BSF Composite Hospital, Tekanpur, Gwalior (MP) on 06.05.2015. Subsequently, the petitioner was given Medical Category SIHIA3(S-L) P3(T-24)E1 on 07.08.2019 with 45% disability by a Board of Medical Officers of BS, being a case of 'Ganglion Cyst with ACL/PCL (Rt) Knee (Post arthroscopy reconstruction) with PIVD L-4-L5, L-5-S1 with Obesity'. A departmental Court of Inquiry was conducted by BSF to investigate into the circumstances under which the petitioner sustained right knee injury and it was found that injury of the petitioner is not attributable to Govt. duty.

3. Whereas, the petitioner underwent ITI Course and Data Entry



Operator Course at DSDC C/o 25 Bn BSF, Chhawla, New Delhi w.e.f 06.06.2022 to 22.08.2023. While the petitioner was undergoing ITI Course and Data Entry Operator Course at DSDC, disability of the petitioner was re-assessed by Safdarjung Hospital, New Delhi as 55% (Permanent) Locomotor disability on 13.05.2023.

4. Whereas, BSF has its own medical set-up for providing medical facility to the BSF personnel. As per opinion of Commandant (Medical) of HQ BSF New Delhi, petitioner's treatment can be managed in the Hospitals, where Orthopedic and Neurologist Departments are available. In addition to AIIMS New Delhi, his treatment can be managed in Kolkata, Jalandhar, Chandigarh, Jaipur, Bangalore, Jodhpur etc where Orthopedic and Neurologist Departments are available.

5. Therefore, after detailed examination of the request of the petitioner as made in the above writ petition in the light of aforesaid facts, available records, policy and governing rules, and keeping in view of the medical condition of the petitioner, who is suffering from chronic bone disease and requirement of his treatment, the DG BSF has approved the posting of No. 058770049 Ct (Cook) Amitabh Kumar Dubey of 32 Bn BSF (the petitioner) to 36 Bn BSF, Greater Noida, Delhi NCR where Orthopaedic and Neurologist Departments are available in nearby Hospitals.

6. This order is being issued in respectful compliance of the solemn Order dated 08.12.2023, passed by the Hon'ble High Court of Delhi at New Delhi in WP(C) No. 15814/2023 titled 'Amitabh Kumar Dubey Vs UOI & Ors'.

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2. Copy of speaking order dated 26th March, 2024 passed by Directorate General, Border Security Force, Ministry of Home Affairs, is taken on record.
3. Considering the aforesaid, the present petition is disposed of, as satisfied.

MINI PUSHKARNA, J

APRIL 3, 2024/ak