



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

% Date of decision: January 25, 2024

+ W.P.(C) 14959/2023 & CM APPL. 59751/2023

(24) CPL CHETAN GAUTAM (948563-H) Petitioner

Through: Ms. Chavi Yadav and
Mr. Ajit Kakkar, Advs.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Ruchir Mishra, Mr. Mukesh Kr.
Tiwari, Ms. Reba Jena Mishra and
Mr. Sanjiv Kumar Saxena, Advs. with
Sqn. Ldr. M.N. Khan and
Sgt. Vikas Kumar

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following prayers:

"It is therefore most humbly prayed that this Hon'ble Court may be pleased:-

(a) To pass a Writ in the nature of Certiorari for setting aside the Signal 2023/RDH/490 dated 31.07.2023;

(b) To pass a Writ in the nature of Certiorari for setting aside the Signal 2023/AFRO/RDH/878 dated 09.11.2023;

(c) To Pass a Writ in the nature of Mandamus directing the Respondents to accommodate the Petitioner at place wherein a medical specialist (Neurosurgeon) is available for his medical treatment/ supervision.

(D) Issue any other/further direction as this Hon'ble High Court may deem fit in the facts of the case."



2. In effect the petitioner has challenged his posting from Suratgarh, Rajasthan to AFA Hyderabad. The ground on which the petitioner is seeking cancellation of the posting order is because, he has *Chronic Low Backache*.

3. When the matter was listed on November 20, 2023, this Court *inter alia* had passed the following order:

“5. Since the petitioner was last examined at RR Hospital, it would be expedient to call for a report from RR Hospital as to whether the petitioner requires constant monitoring by a Neuro Surgeon or monitoring is required on periodic basis.

6. The Doctors at RR Hospital shall also opine whether petitioner needs to be posted in a station where the facility of a Neuro Surgeon is available or petitioner can be posted at place where immediate facility of a Neuro Surgeon may not be available and petitioner could be examined by a Neuro Surgeon a day or so later.

7. Respondents are directed to obtain an opinion from the RR Hospital particularly the doctors who had examined the petitioner. In case there is a requirement of petitioner to be re-examined by the said doctor/board, petitioner shall appear before the said board as and when so required. Let a report be called for before the next date of hearing.”

4. Pursuant to the said order, the respondents have filed a letter dated November 30 2023, annexing therewith the communication dated November 29, 2023 from the Neurosurgeon wherein he has opined as under:

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**REPLY TO HON'BLE HIGH COURT OF DELHI ORDER
IN R/O 948563H CPL CHETAN GAUTAM**

1. Please refer the fwg:-

a) Medical care sheet of SMC 35 Wg AF

b) Hon'ble High Court of Delhi Order dt 20 Nov 2023

c) Opinion of Neurosurgeon Army Hosp (R&R) dt 19 Oct 2023

2. The patient (No 948563H Cpl Chetan Gautam) was re-examined at Army Hospital (R&R) Delhi on 29 Nov 2023 by the Neurosurgeon.

3. Para 5 of Hon'ble High Court of Delhi Order dt 20 Nov 2023 refers

a) As per current clinical status, individual does not require constant monitoring by a Neurosurgeon.



- b) The individual has been recommended to be placed in Low Medical Category P2 (Permanent) / Equivalent in Air Force vide Opinion of Neurosurgeon Army Hospital (R&R) Delhi dt 19 Oct 2023 with restrictions of 'Not to lift weights > 5 Kg', 'Not to bend forwards / sideways', 'Regular Walk', 'Avoid prolonged standing' & the periodic review will be as per the directions of the Medical Board.
4. Para 6 of Hon'ble High Court of Delhi Order dt 20 Nov 2023 refers: the present clinical status of the Indl does not merit any requirement of posting to a location where service Neurosurgeon facilities are available.
5. Pl ack."

(emphasis supplied)

5. If that be so, we are of the view that the Neurosurgeon has opined certain aspects, which needs to be adhered to by the petitioner without the assistance of a Neurosurgeon and in any case, the petitioner having been transferred to AFA Hyderabad, the medical facilities shall be available to the petitioner at Hyderabad also.

6. We do not see any merit in the petition and dispose of the same by directing the petitioner to join the place of posting at Hyderabad by availing the jointing time.

CM APPL. 59751/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 25, 2024/jg