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

% **Date of decision: 5th September, 2024**

+ **CONT.CAS(C) 1406/2024 & CM APPL. 51514/2024**

RADHE SHYAMPetitioner

Through: **Mr. Vikas Malik and Mr. Chandrapal, Advs.**

versus

SHRI GOVIND MOHAN & ORS.Respondents

Through: **Mr. Avnish Singh, SPC with Mr. Kapil Dev Yadav, GP along with Mr. Devender Singh, Mr. Govil Upadhyaya & Ms. Kanchan, Advs. for UOI**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 51513/2024 – EXMP.

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 51515/2024 (Condonation of delay of 76 days in filing)

3. For the reasons stated in the application and in the interest of justice, the application is allowed and the delay of 76 days in filing the petition is condoned.

CONT.CAS(C) 1406/2024 & CM APPL. 51514/2024 (Stay)

4. The petitioner is seeking initiation of contempt proceedings alleging wilful disobedience of directions passed by this Court *vide*



order dated 15.06.2022 in W.P.(C) 9501/2022 and CM APPL. 28359/2022.

5. Learned counsel for the respondents is present along with official of Border Security Force [“BSF”].

6. Shorn of unnecessary details, this Court *vide* the aforesaid order in the captioned writ, quashed the transfer/positing order dated 19.05.2022, thereby allowing the petitioner to continue to stay in Delhi till ATO-2023 for the purposes of treatment of his girl child, who has been suffering from Cerebral Palsy. It was provided that at the end of said period, the petitioner would give three options to the respondents, keeping in mind the availability of the medical facilities and the respondents would be at liberty to transfer the petitioner to any one of the three places in accordance with the options given and an undertaking was given by the petitioner that he shall comply with the further transfer/posting orders.

7. In the instant writ petition, the grievance of the petitioner is that pursuant to the aforesaid directions and as per the options given by him, he was transferred on 10.04.2023 to 41st BN¹ BSF at Srinagar and on his request he was attached to STC BSF, Srinagar for a year but now on 13.05.2024 he has been ordered to be detached from the current posting i.e. STC BSF, Srinagar and directed to report to the parent unit, namely 41st BN, BSF.

8. During the course of arguments, it is brought out that the petitioner, who has put in almost 12 years of service is engaged as ASI (Pharmacist) and his services are required to facilitate medical



services to BSF. It is brought to the fore that girl child is being treated at AIIMS². The petitioner submits that due to facility of Air-Cargo he has been able to come to Delhi whenever the girl child was required to be given medical treatment, which would not be available elsewhere. It is also urged that he has been posted with 41st BN BSF, its tenure is almost complete and he shall be moving to some other place, which may cause logistical problems in taking care of his ailing daughter.

9. It is fairly conceded by the learned counsel for the petitioner that petitioner has no vested right as such. However, learned counsel for the respondents submitted that as and when 41st BN BSF moves, the case of the petitioner shall be considered sympathetically. On such assurance, learned counsel for the petitioner seeks permission to withdraw the present writ petition.

10. Accordingly, the present writ petition is dismissed as withdrawn.

11. The pending application also stands disposed of accordingly.

DHARMESH SHARMA, J.

SEPTEMBER 05, 2024

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¹ Battalion

² All India Institute of Medical Services