



\$~54

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

+ **W.P.(C) 12812/2024**

RAM VASHISHTHA YADAV

.....Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman
Mehrotra and Mr. Nikunj Arora, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Anshuman, Adv., SPC with Mr.
Yash, Adv. G.P.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

%

12.09.2024

CM APPL. 53406/2024 –Ex.

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

W.P.(C) 12812/2024 & CM APPL. 53405/2024 –Stay.

3. The petitioner, who is serving as a Second in Command in the Border Security Force (BSF) has approached this Court under Article 226 of the Constitution of India seeking the following reliefs:

“(i) Issue a Writ of Certiorari for quashing of the order dated 15.04.2024 and letter dated 10.06.2024 whereby the Petitioner is being deattached from Women Safety Division, Ministry of Home Affairs w.e.f. 14.09.2024; and



(ii) Issue a Writ of Mandamus directing the Respondents to defer the deattachment of the Petitioner for a period of 3 months from the date of filing of the present petition, thereby allow him to continue at the present place of posting, keeping in view the surgery, that he has to undergo on 30.10.2024, and the post-surgery recovery; and

(iii) Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case.”

4. Learned counsel for the petitioner submits that on account of an injury suffered by the petitioner in the year 2002, which injury was opined as being attributable to service, he is suffering from 42% permanent disability and has to therefore undergo a hip replacement surgery at AIIMS, New Delhi. He submits that though the surgery was earlier scheduled for 29.07.2024, it has been postponed to 30.10.2024. The petitioner is therefore seeking only three months' further time so as to enable him to undergo the requisite surgery at AIIMS, New Delhi.
5. Issue notice. Learned counsel for the respondents accepts notice and submits that the petitioner has already been attached to the Ministry of Home Affairs in New Delhi for the last more than 10 years and therefore there is no reason as to why he should not be asked to report at his parent unit where he can always seek Medical Leave for undergoing the surgery.
6. Having considered the submissions of the parties, we are of the view that taking into account that the petitioner is seeking only three months' further time to undergo a surgery at AIIMS, New Delhi, which is scheduled for 30.10.2024, it would be in the interest of



justice to accept his prayer by deferring the implementation of the impugned order for a period of three months. This would, however, be subject to the petitioner filing an undertaking before this Court that he would not seek any further extension for his retention in Delhi.

7. Learned counsel for the petitioner, on instructions from the petitioner who is present in Court, submits that the petitioner will file an undertaking to this effect before this Court within one week.
8. In the light of the aforesaid, we dispose of the writ petition alongwith the pending application, by directing that the impugned order will not be given effect to till 15.12.2024. The petitioner is therefore granted time to report at his new place of posting on or before 16.12.2024, making it clear that no further extension will be granted to him for his retention in Delhi. We further make it clear that in case the petitioner does not report at his new place of posting on or before 16.12.2024, it will be open for the respondents to not only initiate appropriate disciplinary action against him as per law, but also initiate contempt proceedings against him.

REKHA PALLI, J

SHALINDER KAUR, J

SEPTEMBER 12, 2024

acm