



2024:DHC:9312-DB



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

Date of decision: 28.11.2024

+ **W.P.(C) 10251/2024 & CM APPL. 42039/2024**

SUMIT KUMARPetitioner

Through: **Mr. S.K. Vashistha, Adv.**

versus

UNION OF INDIA & ORS.Respondents

Through: **Mr. Rakesh Kr. Dudeja, SPC
with Mr. Madan Lal Kalkal,
Mr. Devendra Kumar, Advs.
Mr. Rakesh, CGSC with Mr.
Tarveen Singh Nanda, Govt.
Pleader for R/Union of India.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. This Court, *vide* its Order dated 11.09.2024, called upon the learned counsel for the respondents to seek instructions on whether the petitioner can be examined by an independent Medical Board to determine whether he is fit to be posted in Kashmir.
2. The learned counsel for the respondents submits that pursuant to the abovementioned Order, the petitioner was called upon to present himself before a Board of Doctors at Northern Railways Central Hospital for his examination on 28.10.2024, however, the petitioner did not make himself available for the same.



3. The learned counsel for the petitioner submits that the petitioner apprehended bias at the hands of doctors at the said Hospital and, therefore, did not make himself available for the medical examination. He further submits that on the same day, this petition was also listed before this Court and, therefore, the petitioner thought it unfit to appear for the medical examination.

4. We do not approve of the stand taken by the petitioner.

5. It is the case of the petitioner that he is facing difficulty in walking and has an acute pain in his back because of which he should not be posted at Kashmir. Taking note of this averment, this Court had called upon the learned counsel for the respondents to seek instructions on whether the petitioner could be medically re-examined. The petitioner, however, has not made himself available for such medical re-examination, though an opportunity for the same was granted by the respondents. His plea of bias to say the least is totally unfounded.

6. The challenge of the petitioner to his transfer is, therefore, rejected. The petitioner must join his posting on transfer within a week from today. However, this Order will not prejudice the petitioner from making a fresh request to the respondents for the medical examination and for re-consideration of his posting.

7. In the present petition, the petitioner has also prayed for the following relief:

“iv) to issue writ(s), order(s), direction(s) more in the nature of writ of mandamus to direct the respondent no.2 to decide the period of suspension



of the petitioner as per rule with its consequential effect.”

8. The petitioner was arrested in relation to FIR No.134/2016 under Sections 21, 22, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on 20.06.2016. He was granted bail and was released from jail on 24.10.2016. He had been placed under suspension by the respondents *vide* Order dated 20.06.2016. His suspension was revoked by an Order dated 14.09.2018 passed by the ASC, RPF, RDSO, Lucknow, awarding him punishment of censure. The petitioner claims that by the said order, the period of suspension was not decided. The petitioner, therefore, by way of the present petition has sought a direction to the respondent no.2 to decide the period of suspension of the petitioner as per rules and grant consequential relief.

9. We are of the opinion that the respondents should consider the contents of the present petition as a representation of the petitioner on the said issue and decide on the same within a period of four weeks from today, communicating its decision to the petitioner. In case, the petitioner is aggrieved of the same, it shall be open to the petitioner to challenge the same in accordance with law.

10. The petition along with the pending application is accordingly disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 28, 2024/KG/ab/B/VS

Click here to check corrigendum, if any