

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONMT.PET.(C) No. 1267/2023 in C.A. No. 7175/2021

XYZ

Petitioner(s)

VERSUS

COL. SANJAY NIJHAWAN & ORS.

Respondent(s)

(FOR ADMISSION and IA No.238967/2023-PERMISSION TO APPEAR AND ARGUE
IN PERSON, IA No. 20482/2024 - EARLY HEARING APPLICATION
IA No. 238967/2023 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 05-03-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

Ms. Vanshaja Shukla, (A.C)

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Vikramjit Banerjee, A.S.G.
Mrs. Nachiketa Joshi, Adv.
Mr. Rajan Kumar Chourasia, Adv.
Mr. P V Yogesswaran, Adv.
Mr. Udai Khanna, Adv.
Mr. Vishnu Shankar Jain, Adv.
Dr. Arun Kr Yadav, Adv.
Dr. N. Visakamurthy, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. The present contempt petition has been filed alleging contempt of the directions issued by this Court in its judgment dated 26.09.2023 rendered in Civil Appeal No.7175/2021.

2. Shri Viramjit Banerjee, learned Additional Solicitor General of India appearing on behalf of the respondents, contends that the review of the aforesaid judgment has been sought and, therefore, the present contempt petition be kept pending *sine die* to await the outcome of the review proceedings.

Ms. Vanshaja Shukla, learned Amicus Curiae assisting the Court on behalf of the petitioner, fairly states that though she has no

objection if the contempt petition is adjourned for a reasonable time but certain issues are required to be immediately addressed. She states that this Court in its judgment dated 26.09.2023 rendered in Civil Appeal No.7175/2021 at paragraph 89 has estimated the life expectancy of the petitioner to be around 12 years. She further submits that the Court has also directed the petitioner to be provided by-monthly treatment at Research and Referral Hospital, New Delhi and also directed for providing travel and lodging expenses whenever the petitioner travels to Delhi for taking treatment. She further submits that the direction given to provide expenses for engagement of an attendant needs immediate compliance.

4. The third issue is with regard to the disability pension.

5. Shri Viramjit Banerjee submits that the treatment for HIV is not available at Research and Referral Hospital, New Delhi but is available at the Base Hospital, New Delhi, which is just across the road. He submits that let medical treatment be provided to the petitioner at the Base Hospital, New Delhi. Insofar as the travel expenses are concerned, he submits that under the rules there is a provision to claim reimbursement of travel expenses and as such after the petitioner completes his travel he can submit his bills for reimbursement.

6. Insofar as the disability pension is concerned, the learned ASG states that for the said purpose the petitioner will have to submit the necessary documents/papers with the Competent Authority and also appear before the Medical Board, which shall assess his percentage of disability.

7. We are inclined to adjourn the matter and post it immediately after reopening of the summer vacation i.e. on 16.07.2024.

8. We clarify that in the event the respondents are not in a position to get the review decided, we will consider proceeding further with the contempt proceedings.

9. In the meantime, we direct the respondents to pay to the petitioner an amount of Rs.18,00,000/- towards attendant expenses, within a period of two weeks, as determined in paragraph 89 of the judgment of this Court rendered in Civil Appeal No.7175/2021. The

said amount shall be transferred in the account of the petitioner, within the aforesaid period.

10. Insofar as the medical treatment is concerned, the petitioner shall be provided medical treatment at the Base Hospital, New Delhi twice a month. The petitioner shall also be paid an amount of Rs.25,000/-, per visit, so as to meet his travel and lodging expenses. The said amount shall also be transferred in the account of the petitioner immediately after the petitioner completes the cycle of the treatment.

11. Insofar as the disability pension is concerned, we find that in the peculiar facts and circumstances of the case, if we permit the procedure of going through the Medical Board, it may lead to another round of litigation and cause further harassment to the petitioner and add to his sufferings.

12. It is needless to mention that the disability of the petitioner was considered sufficient to discharge him from the service. In that view of the matter, we direct the respondents to consider the petitioner's disability as 100% and pay him the disability pension, considering his disability to be 100%. The disability pension of the petitioner shall be deposited in his account prior to 10th day of every month.

13. Needless to state that this deposit shall commence from the month of March, 2024 and the remainder of the amount, which the respondents are required to pay to the petitioner shall be deposited in the Registry of this Court, within a period of two weeks from today. On such deposit being made, the Registry shall invest the same in a fixed deposit receipt, initially for a period of four months.

14. The identity of the petitioner shall be screened and the name of the petitioner be shown as 'XYZ'.

15. List on 16.07.2024.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)