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

+ W.P.(C) 3616/2021, CM APPL. 10980/2021 (for suppressing the identity of petitioner other personal details)

MR. ABC

..... Petitioner

Through: Mr.Anuj Aggarwal and Mr.Shubham
Pundhir, Advs.

versus

BORDER SECURITY FORCE & ORS.

..... Respondents

Through: Mr. V.P.S. Charak, Mr. Srivats
Kaushal and Ms. Shubhra Parashar,
Mr.Pushpender Singh, Mr.Kapil
Gaur, Mr.Aakash Tyagi, Mr.Vaishnav
Singh, Mr.Shubham and Mr.Rampal
Singh Tomar, Advs. for UOI.
Counsel for respondent Nos.
1&3/BSF (appearance not given)

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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06.04.2021

1. The petitioner, on 17th April, 2017 was selected as a Constable (General Duty) in the respondents Border Security Force (BSF). On 12th June, 2017, the petitioner was sent for training. The petitioner, prior to commencement of training, was subjected to medical examination on 8th July, 2017, when was found to be suffering from HIV. A Medical Board was constituted and which, on 6th March, 2018 confirmed the said finding and declared the petitioner unfit for employment in BSF. The said finding was confirmed by the Review Medical Board on 15th November, 2018. After issuing notice to show cause dated 20th December, 2018 to the

petitioner, on 9th April, 2019 the petitioner was discharged from service, in exercise of powers under Section 11(2) of the BSF Act, 1968 read with Rules 177 and 13 of the BSF Rules, 1969. Pursuant to dismissal of the departmental appeal preferred by the petitioner thereagainst, this petition has been filed.

2. The contention of the counsel for the petitioner is that the order of dismissal of the petitioner is contrary to the provisions of the Rights of Persons with Disabilities Act, 2016 and The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 and in violation of Article 21 of the Constitution of India.

3. The matter requires consideration.

4. Issue notice.

5. Notice is accepted by the counsels for respondent Nos. 1 & 3 BSF and respondent No. 2 Union of India.

6. Counter affidavits be filed within six weeks. Rejoinders thereto, if any, be filed within further four weeks thereafter.

7. List for hearing on 20th July, 2021.

8. CM No.10980/2021 is allowed and disposed of and identity of the petitioner for the time being is permitted to be suppressed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

APRIL 6, 2021/SU..