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

+ **W.P.(C) 7931/2013**

RADHA CHAUHAN

..... Petitioner

Through: Ms. Ankita Patnaik, Advocate
(DHCLSC) (Ph. 9873519308 ,
e-mail: ankitapatnaik@gmail.com)

versus

GOVT. OF NCT OF DELHI AND ORS

..... Respondents

Through: Ms. Vibha Mahajan Seth and
Ms. Divyanshi Anand,
Advocates (Ph. 9971387134,
e-mail: adv.divyanshi@gmail.com)

Mr. Ajay Digpaul, CGSC with
Mr. Kamal Digpaul and
Ms. Swati Kwatra, Advocates
for R-3/RML (Ph. 9811157265,
e-mail: dispaulassociates@yahoo.co.in)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

18.01.2023

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[Physical Hearing/ Hybrid Hearing]

1. The present writ petition has been filed with a prayer for direction to the respondents to acknowledge the courageous act of the petitioner with due reward and to give the petitioner the monetary compensation as was given to the other security personnel injured at the time of the terrorist attack on the Parliament House on 13.12.2001.
2. It is the case on behalf of the petitioner that she was posted as Senior Platoon Commandant, Home Guards, at the Traffic Police Post in front of Parliament House, Delhi. It is submitted that the petitioner



suffered grievous injuries, being shot at by the terrorists during the terrorist attack that took place at the Parliament House. On the same day, the petitioner was taken to Ram Manohar Lohia Hospital, Delhi (in short 'RML') along with others injured in the firing during the terrorist attack, wherein she remained admitted for treatment for about next 10 days. It is submitted that thereafter, the petitioner left for her hometown for recovery after the grievous injuries sustained by her. It is the case of the petitioner that she returned to Delhi only after 2-3 months later and was never inducted back on her job. Thus, by way of present writ petition, it is prayed that the petitioner be reinstated to her job as it stood on 13.12.2001 with full back wages or to induct the petitioner on any other job in the Home Guard or Police Department, as per her qualifications and experience.

3. Ms. Vibha Mahajan Seth, Advocate appearing on behalf of the respondent No. 1 submits that there is no record with the respondent that the petitioner was ever engaged as a home guard by the respondent No. 1. She further submits that name of the petitioner also does not figure in the FIR that was lodged at the time of incident of 2001, when Parliament was attacked by the terrorists.

4. Learned counsel for the respondent No. 1 submits that detailed investigation has been carried out by respondent No. 1. No record showed that the petitioner had ever engaged as a home guard by the respondent No. 1. In fact, the respondent No. 1 has perused its record from 1995-2005 and carried out a detailed investigation and the name of the petitioner does not occur in any of the records maintained by respondent No. 1. She further points out that as per the records of the



respondent No. 1, no person was engaged on traffic duty on that particular date when the incident in question happened. She further submits that the petitioner has also not been able to point out any bank account where amount towards her allowances were deposited by Home Guard Department in the said account.

5. She further submits that in the affidavit filed in the year 2013 on behalf of petitioner, the age of the petitioner has been shown as 38 years. It is pointed out that the petitioner has attached a certificate of training by the Home Guards of the year 1990 along with the present writ petition.

6. Thus, it is submitted that if the age of the petitioner was 38 years in the year 2013, then by the said calculation, the petitioner would have been 15 years of age in the year 1990. It is submitted that as per the Home Guards Rules, the minimum age for engaging as a home guard is 30 years. Thus, she submits that even by that analogy, the petitioner could not have been given any training for home guard in the year 1990 or engaged by the Home Guards. It is submitted that the said certificate of the year 1990 is a forged and fabricated document.

7. It is, thus, submitted that disputed questions of facts have been raised by the petitioner which cannot be adjudicated in the present writ proceedings. Learned counsel for respondent no. 1 submits that the petitioner ought to raise her claims by filing an appropriate suit, where she would get an opportunity to establish her case by leading evidence.

8. At this stage, learned counsel for the petitioner submits that she



may be given a copy of the detailed investigation as carried out by respondent No. 1 so that she can peruse the same and make appropriate submissions before this Court.

9. Mr. Ajay Digpaul, learned Standing Counsel for respondent No.3 submits that there is no record available with respondent No. 3 with respect to the claim of the petitioner having been admitted in RML Hospital in the year 2001, after the incident to ascertain whether or not the petitioner was admitted in RML Hospital on the date of incident in the year 2001, as claimed by the petitioner. He further submits that the records have already been weeded out, as in accordance with the Rules, the OPD record is maintained only for a period of three years.

10. In that view of the matter, respondent No. 1 is directed to file a copy of the investigation report before this Court within a period of four weeks, with advance copy to learned counsel for the petitioner.

11. None appears on behalf of respondent No. 2, Commissioner of Police when the matter is called out. Learned counsel appearing for respondent No. 1 submits that the presence of respondent No. 2 would be needed for the purposes of adjudication of the present matter.

12. Issue notice to the Standing Counsel (Criminal) of Delhi Police to ensure that there is appearance on behalf of the learned counsel for Commissioner of Police, on the next date of hearing.

13. List on 20.04.2023.

MINI PUSHKARNA, J

JANUARY 18, 2023/PB



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