

GAHC010082552018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/242/2018

SRI VIRENDER SINGH
S/O SRI HUKAM SINGH C/O LATE VIJOY PAL SINGH
R/O HOUSE NO B-90/2, TEJPUR PAHAR'S MOHAN BABAGANJ
BADARPUR BORDER, NEW DELHI

VERSUS

1: THE UNION OF INDIA AND 2 ORS REPRESENTED BY THE SECRETARY
TO THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF
HOME AFFAIRS,NORTH BLOCK, NEW DELHI-110001.

2:THE DIRECTOR GENERAL ASSAM RIFLES
SHILLONG MEGHALAYA

3:THE COMMANDANT
8TH ASSAM RIFLES C/O 99 AP

For the Appellant(s) : Ms. S. Bora, Advocate.

For the Respondent(s) : Mr. R.K.D. Choudhury, Deputy Solicitor General of India.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

14.05.2024
(Vijay Bishnoi, CJ)

This writ appeal is filed by the appellant/writ petitioner being aggrieved with the judgment dated 22.03.2018 passed by the learned Single Judge in WP(C) No.726/2012, whereby the writ petition filed by the petitioner

for disability pension has been dismissed on the ground of delay and laches in approaching the Court.

The brief facts of the case are that the appellant/ writ petitioner was working as Rifleman in the Assam Rifles and on account of the injury suffered by him, his medical category was downgraded to BEE (Permanent) vide Medical Board Proceedings dated 20.10.1995. Thereafter the appellant/writ petitioner was compulsorily retired from service w.e.f. 31.01.1999 and he was granted basic pension of Rs.1275/- per month.

In the year 2002, the appellant/writ petitioner served a Legal Notice to the respondents seeking compensation to the tune of Rs.10 Lakh, which was rejected and then the appellant/writ petitioner filed a writ petition before the Delhi High Court with a prayer to direct the respondents to pay compensation to the tune of Rs.10 Lakh to him. In the said writ petition, the appellant/writ petitioner had also prayed that the Assam Rifles be directed to sanction regular pension to him and to commute the same. The writ petition was dismissed by the Delhi High Court vide order dated 01.03.2007 while also observing that the appellant/writ petitioner had given his prayer for sanction of regular pension and for commutation of the same and the same had already been granted to him.

In the year 2010, another writ petition was filed by the appellant/writ petitioner before the Delhi High Court with a prayer to issue a direction to the respondent authorities for grant of disability pension. However, the said writ petition was dismissed by the Delhi High Court for want of jurisdiction.

In the year 2012, the appellant/writ petitioner preferred WP(C) No.315/2012 before this Court, which came to be dismissed as not pressed while granting liberty to the appellant/writ petitioner to file a fresh writ petition and pursuant to that, the appellant/writ petitioner has filed a fresh writ petition.

The learned Single Judge has dismissed the said writ petition by the impugned judgment dated 22.03.2018 while observing as under:-

“14. In the present case, the respondents have taken the stand that the petitioner, on his own, refused to be invalidated out of service on medical ground and he himself chose to proceed on compulsory pension, which was granted to him. The petitioner not being screened by RMB, the petitioner was not entitled to disability pension. The averments made by the respondents in their affidavit-in-opposition filed on 11.05.2012 have not been controverted by the petitioner and as such, are deemed to be admitted facts. Thus, the petitioner having refused to be invalidated out of service on medical ground, the petitioner cannot now claim disability pension. Further, the petitioner had been compulsory retired w.e.f. 31.01.1999. However, the petitioner did not deem it fit to pray for disability pension, when he first filed WP(C) No. 6934/2002 in the Delhi High Court. His prayer for disability pension was first made only in the year 2010, when he filed WP(C) No. 8595/2010 in the Delhi High Court. The present petition has been filed only in the year 2012. Thus, as more than 11 years had passed after his compulsory retirement, before the petitioner made his prayer for payment of disability pension, this Court finds that there has been enormous delay and laches in approaching the Court, which has not been properly explained. Thus, as the petitioner refused to be invalidated out of service on medical ground and due to the delay and laches in approaching this Court for his disability pension, this Court is not inclined to exercise its discretion.

15. Writ Petition is accordingly dismissed.”

The learned counsel for the appellant/writ petitioner has failed to persuade us to take a different view in the matter.

We are of the view that the learned Single Judge has rightly refused to interfere with the writ petition as the appellant/writ petitioner has approached the Court with a delay of more than 11(eleven) years. Apart from that, the appellant/writ petitioner has not prayed for disability pension in the year 2002 when he first approached the Delhi High Court. It is also to be noted that the appellant/writ petitioner chose to proceed on compulsory retirement. It is also

to be noted that the appellant/writ petitioner has given up his claim for sanction of regular pension and for commutation of the same because the same was granted to him. The appellant/writ petitioner has also refused to go before the Medical Board for assessing his disability.

In the above noted facts and circumstances, we do not find any error in the impugned judgment dated 22.03.2018 passed by the learned Single Judge in WP(C) No.726/2012. Hence, this writ appeal stands dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant