

GAHC010155582020



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

Case No. : WP(C)/4606/2020

NO. 115330082 EX RT/GD MUSTAQUE AHMED
S/O- HARUN ISLAM, VILL.- SRIKONA PART- II, P.O.- SRIKONA, DIST.-
CACHAR, ASSAM, PIN- 788026.

VERSUS

THE UNION OF INDIA AND 4 ORS
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NORTH BLOCK, NEW DELHI- 110001.

2:THE IGP
CHATTISGARH SECTOR
CTRPF
RAIPUR
PIN- 492001.

3:COMMANDANT 174 BN CRPF
BILASHPUR
CHHATISGARH
PIN- 495001.

4:THE COMMANDANT GC
CRPF
BILASHPUR
CHHATISGARH
PIN- 495001.

5:COMMANDANT 174 BN CRPF
DAYAPUR
SILCHAR
ASSAM
PIN- 788030

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioner : Mr. R. Mazumdar, Advocate.

For the Respondents : Mr. S. K. Medhi, CGC.

Date of Hearing : 16.05.2024, 25.06.2024

Date of Judgment : 25.07.2024

JUDGMENT & ORDER (CAV)

1. Heard Mr. R. Mazumdar, learned Amicus Curiae, representing the petitioner. Also heard Mr. S. K. Medhi, learned CGC representing the Union of India.
2. This Court taking note of the issues involved, requested Mr. R. Mazumdar, learned counsel to assist this Court as Amicus Curiae. Accordingly, Mr. Mazumdar, learned Amicus Curiae, has advanced his argument.
3. Before advertng to the argument of Mr. Mazumdar, learned Amicus Curiae, let this Court first record the background facts of the present case as discernible from the facts pleaded by the parties.
 - I. The petitioner was selected to the post of Constable (General Duty) in the Central Reserve Police Force (in short CRPF), vide an appointment letter dated 10.07.2010 issued by the Commandant-147 Bn, CRPF.
 - II. Thereafter, on 11.01.2011, the petitioner joined his duty at Dayapur, Silchar. After joining, the petitioner was sent to the CRPF Training Center at

Neemuch, Madhya Pradesh. Unfortunately, while undergoing training, the petitioner sustained injuries in both his knees and accordingly, he was admitted to Composite Hospital, CRPF at Neemuch on 22.12.2011. Subsequently, he was referred to Composite Hospital, CRPF, New Delhi for further treatment on 30.12.2011. and thereafter, on 12.01.2012, he was referred to Safdarjung Hospital, New Delhi for better treatment. Subsequently, after certain treatment, he was discharged from Safdarjung Hospital on 23.01.2012, and again taken to Composite Hospital, CRPF, New Delhi on 23.01.2021 and from there, he was discharged on 09.02.2012.

III. In the course of his treatment, the petitioner had been under supervision at Composite Hospital, CRPF, New Delhi and on 26.03.2012 the petitioner was issued a medical certificate of fitness to resume his duty by the Authorized Medical Attendant, Composite Hospital, CRPF, New Delhi and accordingly, he had resumed his duty in Neemuch but after two months, he again complained of pain on his left knee. Thereafter, the petitioner was again referred to Composite Hospital, New Delhi on 08.06.2012 from where he was referred to Safdarjung Hospital on 23.06.2012.

IV. After treatment at Safdarjung Hospital, the petitioner joined at Bilaspur but the petitioner, after attending training sessions for two months, again felt a recurrence of the pain in his left knee for which he was again referred to Composite Hospital, New Delhi on 05.09.2012. Thereafter, the petitioner was referred to the Sports Injury Center, Safdarjung Hospital from the Composite Hospital, New Delhi. After receiving treatment at Safdarjung Hospital on 12.09.2012, the Composite Hospital, New Delhi issued a Fitness Certificate to the petitioner on 15.09.2012.

V. Thereafter, the petitioner was transferred to Rajgir RTC-V 5 CRPF

Training Center in Bihar and he was again sent back to Bilaspur Group Center, Chhattisgarh. In February 2013, the petitioner again felt pain in his left knee, while he was in his duty in Bilaspur. Accordingly, he was again referred to Composite Hospital, New Delhi on 06.02.2013. After treatment at Composite Hospital, New Delhi though, the petitioner did not get complete relief from his injuries but he was issued a Medical Fitness Certificate by Composite Hospital, New Delhi on 21.02.2013 and accordingly, he again joined in Bilaspur. But after 5 months, the petitioner again felt pain in both knees and accordingly was again referred to New Delhi and he was again treated at Sports Injury Centre, Safdarjung Hospital on 14.08.2013. After completion of the treatment of the petitioner conducted at Composite Hospital, New Delhi and Safdarjung Hospital, on 26.08.2013, a fitness certificate was issued by the Composite Hospital, New Delhi to resume his duty.

- VI. After that, the petitioner resumed his duty at Bilaspur and while undergoing physical training, he again realized the pain in both knees for which, he was referred to Patna where an MRI of his right knee was conducted on 25.06.2014 but he did not get complete relief for which 28 days medical leave was granted to the petitioner with effect from 30.08.2014 to 26.09.2014 by the Deputy Inspector General of Police (Medical), Composite Hospital, CRPF, Bilaspur on 30.08.2014.
- VII. Subsequently, the petitioner was referred to a Medical Board and on 10.03.2015, the Medical Board opined that the petitioner was not fit to undergo strenuous and rigorous physical training. Accordingly, by an order dated 27.04.2015 issued by the Commandant, GC, CRPF, Bilaspur (CG), the petitioner was terminated from services as per provision of Sub-Rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965

(hereinafter referred to Rules, 1965). Subsequently, the earlier termination order dated 27.04.2015 was amended vide order dated 10.06.2015 to be an order under Rule 6 Rules, 1965.

- VIII. Being aggrieved by such termination order, the petitioner had preferred an appeal before the Secretary to the Government of India, Ministry of Home Affairs, New Delhi as per provision of Sub-Rule (2)(a) of Rule 5 of the Rules, 1965 which was disposed of by observing that as per Rule 6 of the Rules, 1965, the petitioner was terminated on medical ground and there is no provision of appeal against such an order.
- IX. Thereafter, the petitioner approached this Court by way of filing a writ petition being WP(C) No. 4498/2015, which was disposed of by this Court under its order dated 25.02.2020 with a direction to consider the case of the petitioner in terms of the Standing Order No. 04/2011 (amended by order dated 14.08.2021) (hereinafter referred to as SO-4/2011).
- X. After that, in terms of the aforesaid order of this Court dated 25.02.2020, the petitioner was asked to appear before the Departmental Rehabilitation Board by an order dated 19.06.2020 and the petitioner reported before the Departmental Rehabilitation Board on 07.07.2020.
- XI. After examination of the petitioner, by the order impugned in the present petition dated 14.09.2020, the case of the petitioner was rejected for rehabilitation under the Rehabilitation Scheme. Being aggrieved, the present writ petition is filed.
- XII. The Rehabilitation Board while rejecting the claim of the petitioner, concluded the following:-
- a. The petitioner has not completed his basic training and he will not be

able to complete his basic training in future. He will not also be able to take any strenuous work since CRPF is a highly active and mobile Force where he has to take a lot of physical strain even to lead a normal life in the camp.

- b. The petitioner himself agrees to the aforesaid physical condition and requested some monetary compensation which is not permissible under the Rules.
- c. After examination of the physical and mental ability, aptitude, job requirements etc., the petitioner was not physically fit to be rehabilitated for any subsidiary role of CT/GD under the given rules and regulations.

4. Argument advanced by the learned Amicus Curiae, representing the petitioner:-

- I. Mr. Mazumdar, learned Amicus Curiae referring to Section 2(d) of the Central Reserve Police Force Act, 1949 (herein after referred to as Act,1949) contends that a trainee can also be treated as a member of the Force inasmuch as a Member of the Force has been defined as a person who has been appointed in the Force by the Commandant and admittedly the petitioner was appointed by the Commandant.
- II. Mr. Mazumdar, learned Amicus Curiae further refers to Rule 6 of the Central Reserve Police Force Rules,1955 (hereinafter referred as Rules, 1955) and contends that Officer and Men mentioned in Rule 5 of the Rules,1955 shall be deemed to be members of the Force.
- III. He further contends that a temporary person/trainee like the petitioner shall also be treated as a member of Force in terms of Rule 16 of the

Rules, 1955, where it is prescribed that all members of Force shall be enrolled for a period of 3 years. Therefore, a temporary appointee for 3 years is also a member of the force.

IV. Referring to sub Rule (d) of Rule 26 of the Rules 1955, Mr. Mazumdar learned Amicus Curiae contends that the period of training shall be treated as duty for all purposes under FR. 9(6)(b)(i). Therefore, on this count also, the petitioner cannot be deprived of his right.

V. Referring to Rule 52 of Rules, 1955, Mr. Mazumdar, learned Amicus Curiae contends that all members of the Force on duty or duty with a military force are entitled to wound, injury or family pensions or gratuities as laid down in Civil Service Regulations or the Central Civil Service (Extraordinary Pension) Rules, 1939 (herein after referred as Rules,1939). Therefore, on this count also, the petitioner is entitled to such benefit.

5. **The contention of the learned counsel for the respondents:-**

Mr. S. K. Medhi, learned CGC representing the Union of India submits the following:-

I. The present writ petition is not maintainable as the petitioner has not challenged the termination order and in the absence of such challenge to the termination order, the petitioner cannot be granted the benefit as claimed. In this contention, Mr. Medhi, learned CGC, relies on the decision of the Hon'ble Apex Court in the case of **Mukul Saikia & Ors –VS- State of Assam & Ors** reported in **AIR 2009 SC 747**.

II. Mr. Medhi, learned CGC further contends that in terms of the Government Office Memorandum dated 04.08.2017 issued by the Government of India, Ministry of Home Affairs, for cases with disability and

payment of an ex-gratia lump sum compensation, a minimum 20% disability will be the condition for grant of ex-gratia lump sum compensation and therefore, this Court may remand the matter once again to the employer to determine the entitlement of compensation under the aforesaid Memorandum since the petitioner is not entitled for any benefit under the Rehabilitation Scheme as he is not a member of the Force at the time of accident and he was only a trainee and his training was not completed.

III. Mr. Medhi, learned CGC further contends that neither the training was complete nor oath was taken by the petitioner in terms of Rules, 1955 and therefore, by no stress of imagination, the petitioner is entitled to the benefit of rehabilitation under the Rehabilitation Scheme since rehabilitation is meant for the member of Force not for the trainees.

6. This Court has given anxious consideration to the submissions advanced by the learned counsel for the parties. Also perused the materials available on record.

7. The basic issue to be determined is whether a trainee can be treated as a member of the force and if it is held in the affirmative, the next issue would be what kind of relief that can be granted to the petitioner. Therefore, let this Court first deal with the relevant provisions of the Act, 1949 and the Rules, 1955.

8. The Act, 1949 was enacted to provide for the constitution and regulation of the Central Reserve Police Force.

Section 2 (d) of the Act, 1949 defines a member of the force as a person who has been appointed to the force by the commandant.

9. Section 18 of the Act, 1949 empowers the Central Government to make rules for carrying out the purposes of this Act and in particular, relating to the matters

enumerated under Sub Section 2 of Section 18 of the Act, 1949. Accordingly, the Rules, 1955 were made in exercise of powers conferred under Section 18 of the Act, 1949.

10. Rule 5 of the Rules, 1955 describes the composition of the force. A Head constable is made part of such composition under the said rule and Rule 6 of the Rules, 1955 provides that all the officers and the men mentioned in Rule 5 shall be deemed to be the members of the force.
11. In the case in hand, it is an admitted position that the offer of appointment was issued to the petitioner by the Commandant on 10.07.2010 requiring him to report on or before 09.07.2010. Clause-1(j) of the offer of appointment, declares that the appointment is on temporary capacity, but likely to continue. The offer of appointment also carries a definite scale of pay.
12. The respondent employer, in their affidavit, has also pleaded that the petitioner was enlisted as Constable/GD on 11.01.2011 at Group Centre CRPF Silchar and was allotted to 174 Battalion CRPF and after his enlistment as Constable/GD, the petitioner was dispatched from Group Centre, CRPF, Silchar to Recruit Training College (RTC-I), CRPF, on 13.05.2011 for basic training.
13. Thus, from the aforesaid factual position, it is clear and admitted that the petitioner was appointed to the force and was also enlisted/enrolled as a member of the Force. He was also allotted a particular battalion. In the aforesaid background facts as well as in terms of the definition of Member of Force and in terms of Rule 16 of the Rules, 1955, this Court has no hesitation to hold that the petitioner was a member of the force at the relevant point of time.
14. Mr. Medhi, learned CGSC has emphasized the fact of non-completion of basic training by the petitioner to contend that for want of training, the petitioner cannot be treated as a member of the force. Now let this Court deal with such an

argument.

15. Training is dealt with in Chapter V of the Rules 1955, which consists of one Rule i.e. Rule 26. Said Rule prescribes the nature of training, which is required to be given and the same is enumerated under Rule 26(b). Rule 26(c) empowers a commandant to depute any member of the force to undergo a course of training etc. Rule 26(d) prescribes that the period of training is to be treated as duty for F.R. 9(6)(b)(i). F.R. 9(6)(b)(i) deals with duty. F.R.9(6)(b)(i) bring under its fold of Government Servant to be treated as on duty during a course of instruction or training in India. Thus, from this angle also, the training can be imparted to a member of the Force and such period of training is treated as duty for F.R. 9(6)(b)(i).
16. Therefore, from this context, the petitioner at the relevant point of time i.e. during training, was a member of the force., though in the absence of such training, he may not be eligible to be engaged in active duty as defined under Section 2(a) of the Act'1949. Therefore, the same cannot be a ground for rejection of rehabilitation under the SO-4/2011. It is not even a ground of rejection of benefit of such SO-4/2011. In fact, Mr. Medhi, learned CGC has therefore, in his argument alternatively submitted that matter may be remanded back to the authorities for a fresh determination.
17. Though the learned CGSC has also strenuously urged that such benefits are not meant for the injury sustained during basic training, however, the learned counsel has failed to show any material and /or provisions of the CRPF Act or Rules, or under the SO-4/2011 in question, even remotely suggesting that a person becoming disabled during basic training is not entitled for the benefits under the SO-4/2011 inasmuch as only provision which deals with training is under Chapter V of the Rules 1955. The learned counsel has not been even able to lay any materials including any executive instruction whereby the injury sustained during

basic training is excluded from the benefit of the SO-4/2011 or that until and unless a training is completed, a person cannot be treated as a member of the force.

18. The Rehabilitation Board, while rejecting the claim of the petitioner had opined that the petitioner would not be able to take any strenuous work and the CRPF is a highly active and mobile force where he has to take a lot of physical work even to lead normal camp life. Thus, the claim of the petitioner has been rejected on two counts, firstly, he has not completed the basic training and secondly, he will not be able to perform the strenuous physical activity in CRPF.
19. Now let this Court deal with the ground of rejection.
20. The object of the SO-4/2011 is for the rehabilitation of disabled force personnel. Disabled persons, under Standing Order No. 4/2011, are those who have become disabled due to injury sustained during employment, which includes injuries sustained while undergoing training. Such disability has been categorized under different heads. It is an admitted position that the petitioner suffered injury during training i.e. during course of his employment.
21. The criteria for referring an injured person to the Departmental Rehabilitation Board is enumerated in paragraph 4 of the SO-4/2011. It prescribes that when the Medical Officer is of the opinion that there are no signs/indications of improvement and that the individual is not fit for normal active duty, the case of the individual should be referred to the Department Rehabilitation Board of the unit concerned. Thus the fitness is relatable to active duty. Active duty is defined under Section 2(a) of the Act, 1949 as duty to restore and preserve order in any local area, in the event of any disturbance thereof. Thus, conditions to grant rehabilitation are of two folds, i.e., there are no signs or indications of improvements from the injury and the person is not fit for normal active duty.

22. In terms of Paragraph 6 of SO-4/2011, the Rehabilitation Board is to ascertain whether the injured can be rehabilitated within the force by assigning the jobs mentioned in paragraphs 7 and 8 of SO-4/2011. If the member of the force is not fit for any kind of duty, the rehabilitation committee can recommend the injured to invalidate out.
23. In the case at hand, Paragraph 7 of SO-4/2011 is relevant, since it is relatable to individuals who are below the rank of ASI i.e. a constable (G/D) and others. Paragraph 7 of the O.M. prescribes, certain jobs for such an injured which are enumerated below:-
- a. Dak/Office Runner.*
 - b. Telephone Operator.*
 - c. R/Room, Welfare Centre, School Bus.*
 - d. Salesperson in Canteen, Co-operative, Floor Mills,*
 - e. RTO at Railway Station,*
 - f. Office jobs viz coy writer etc.,*
 - g. Mess Constable, Service Man,*
 - h. Any other specified job considered suitable from time to time".*
24. Therefore, under the SO-4/2011, as discussed herein above, the determination of the Board regarding the incapacity of the petitioner to do strenuous work, itself is contrary to the SO-4/2011 in as much as under the scheme rehabilitation is prescribed for those persons who are not fit for normal active duty and is able to perform the duties enumerated under para 7 of the SO-4/2011. Some of the jobs earmarked for rehabilitation in the paragraph do not even need any strenuous work. Such factual determination as regards ability/capacity for a

specific job is within the domain of the employer/rehabilitation committee, however, while arriving at such a decision, the consideration is to be made in terms of the prescription of the SO-4/2011. Thus, the consideration that is to be made is whether the person can perform the duties as enumerated in paragraph 7 of the SO-4/2011.

25. The fact remains that the SO-4/2011 also deals with situations, where, no engagement can be made due to total incapacity. Paragraph 9 of SO-4/2011 prescribes that a person with 10 years of service to his credit, if is unfit to perform any kind of duties, shall be recommended for boarding out of the force. Sub Paragraph (b) of Paragraph 9 of SO-4/2011 further prescribes that the personnel having 10 years of qualifying service at the time of invalidation, will be entitled to disability pension subject to the condition that their disability is attributable to Govt. duty. Those persons, who do not have 10 years of qualifying service, are required to be retained in the force for up to 10 years to make them eligible for invalidation pension subject to they being within shape in terms of relevant Standing Order.
26. Thus, when a person is not even able to perform the duties under paragraph 7 of the SO-4/2011, and therefore, cannot be rehabilitated, the authority is to determine the status of fitness of the injured and is to proceed accordingly for declaring the injured "permanently incapacitated" by the Medical Invalidation Board.
27. However, none of the aforesaid exercises has been carried out in the case of the petitioner and his case was erroneously rejected. Such benefit was also denied on the ground that the petitioner has not completed the basic training for the injury and will not be able to complete his basic training in future. Therefore, in the considered opinion of this Court, the vital aspect of rehabilitation has been ignored and emphasis is being given to the strenuous nature of duty allotted to a

constable/GD and therefore, this Court has no hesitation to hold that decision of the Rehabilitation Board is not in consonance with the requirement of the SO-4/2011, rather it is contrary to the object of such rehabilitation.

28. It is not in dispute that the disability pension as envisaged under Rules 1939 is also applicable to a member of the Force. It is worth mentioning here that Rule 52 of the Rules, 1955 prescribes that all members of the force on duty or on duty with a military force shall be entitled to wound, injury or family pensions or gratuities as laid down in Civil Service Regulations or Rules, 1939. In fact, as discussed hereinabove, the SO-4/2011 deals with the disability pension in terms of the aforesaid Rules, 1939 and Rules, 1972
29. Rule 3(A) of the Rules, 1939 provides that disablement is to be accepted as due to government service subject to the condition that it is certified that such disablement is due to wound/injury or disease attributable to the government service.
30. Rules, 1939 is made applicable to all Central Government employees whether their appointment is permanent or temporary, on the scale of pay or fixed pay or piece work rates.
31. Rule 3-A of the Rules 1939 deals with disablement and death. It provides that such disablement pension can be awarded in terms of the Rules 1939, when the injury, wound or disease is attributable to the government service or existed or arose during the government service and has been and remains aggravated thereby.
32. Rule 8 of the Rules, 1939 deals with the percentage of the disability. Rule 9(1) of the Rules, 1939 prescribes that when disablement of a government servant is conceded as arose in terms of Rule 3-A, such person is required to be awarded disability pension in terms of sub rule 2 and 3 of Rule 9(A).

33. Rule 13 prescribes that the procedure of grant of such pension shall be as prescribed for granting ordinary pension.
34. Thus, from the aforesaid, it is clear that there is no such prescription of qualifying service when a person is invalidated due to disablement and considered for benefit under Rules, 1939.
35. In terms of the Rules, 1939, it is the employer who is to have a satisfaction on the basis of medical record/examination of the employee, carried out by the employer that employee has become disabled to perform his duties and such disability is attributable to service condition and he is being discharged from the service and therefore, he is entitled for disability pension.
36. As discussed hereinabove, in the case in hand, it is an admitted position that the petitioner is a member of the force, in terms of the Rules, 1955 and definition under Section 2(d) of the Act, 1949 and he was on duty during his training, the injury sustained during duty have to be deemed to be attributable to the government duty. Therefore, from this point of view, the petitioner shall be entitled to the benefit under the Rules 1939.
37. Procedure of termination of a temporary employee under Central Government is dealt under Rule, 1965. Admittedly, initially the service of the petitioner was terminated in terms of Rule 5(1) of the Rules, 1965 which empowers the employer to terminate service of a temporary government servant at any time by a notice in writing. Subsequently, such termination was amended to be issued under Rule 6 of the Rules, 1965. In terms of Rule 6 of the Rules, 1965, the service of a temporary government servant can be terminated at any time, without notice, on his being declared physically unfit for continuance in his service. On a plain reading of the Rule 6 of the Rules, 1965, it is clear that an employer is empowered to terminate temporary service on account of physical

unfitness without notice, however, the condition precedent is that the competent authority is to declare him physically unfit for continuance in service. The competent authority in this regard, in terms of Rule 6 of the Rules, 1965 is the authority who would have been competent to declare him as permanently incapacitated for service had his appointment being terminated. In this case in hand, determination/declaration as regards physical capacity of the petitioner was made by the Rehabilitation Committee which was constituted for determination of right of a person under SO-4/2011. Therefore, such determination cannot be a procedure under Rule 6 of the Rules, 1965. However, such determination is to be made by an authority, who would have been competent to declare him as permanently incapacitated for service, had his appointment been permanent. Therefore, a Medical Invalidation Board is required to be constituted on a reference made by the Departmental Rehabilitation Board in terms of the SO-4/2011. Unfortunately, as recorded hereinabove, the Rehabilitation Board neither opined for invalidation nor did opine that the injured was permanently incapacitated for service except opining that the petitioner is not fit to undergo strenuous work. The examination of the petitioner was made by a Rehabilitation Board constituted under SO-4/2011 and it is not Medical Invalidation Board, which is required under the extant norms to discharge a member of the force. In fact, on the basis of determination made by Medical Invalidation Board, a person is considered for pension under Rules, 1939.

38. Thus, the termination of the petitioner from service was not supported either by any authority who had been competent to declare him as permanently incapacitated for service had his appointment been permanent nor any exercise to that effect has been carried out in the case resulting in the violation of the petitioner's valuable right not only under the scheme of the Act, 1949 and the Rules, 1955 but also Article 21 of the Constitution of India.

39. A model employer like the Union of India neither can be expected to throw a trainee/constable/GD to his fate when he became disabled during training nor such a course of action is prescribed under the Act, 1949, the Rules, 1955 framed thereunder or under the Rules, 1965 and/or under Rules,1939, nor they can be allowed to take a technical ground of non challenge of the discharge order, more particularly in the given facts of the present case, where prescribed rules are violated, even SO-4/2011 don't prescribe such a cause of action.
40. Though it is correct that the order of discharge of the petitioner from the force is not challenged in the present writ petition, however in the considered opinion of this court same cannot be a ground for dismissal of the writ petition, more particularly glaring errors committed by the respondents in discharging the petitioner from service without following due process of law and only the opinion of Rehabilitation Board. The fact also remains that termination of service of the petitioner did not preceded by any of the procedure prescribed under Rule, 1965.
41. Therefore, in the given facts of the present case, the ratio laid down in the case of **Mukul Saikia** (Supra) cannot be made applicable in the present case.
42. Thus, from the discussion made and reasons recorded hereinabove, the following conclusions can be made and directions(s) are issued:-
- I. Though the petitioner was a temporary force, he is to be treated as a member of the force in the given facts of the present case. He will be entitled for benefit required to be granted to a temporary employee, who gets invalidated during course of employment.
 - II. The Departmental Rehabilitation Board failed to exercise its power in terms of SO-4/2011 and rejected the claim on the grounds which are not sustainable under the aforesaid SO-4/2011. Therefore, such decision is struck down.

III. The discharge of the petitioner from service is also not in terms of the Rules 1965 and therefore, same is not sustainable in law.

IV. Accordingly, the matter is relegated to the employer to take a fresh decision in terms of the determination made hereinabove and thereafter, the respondent employer shall pass a speaking order deciding the benefit that can be granted to the petitioner on becoming disabled for the injury sustained during the training.

V. The entire exercise be carried out by the respondent authority within a period of four weeks from the date of the receipt of a certified copy of this order to be furnished by the petitioner.

43. Writ petition stands allowed to the extent recorded hereinabove. Parties to bear their own cost.

JUDGE

Comparing Assistant