

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 1044 of 2018

Mr. H.L. Ruwanglen, Ex. No. G/5005629 Rect/GD aged about
32 years, S/o H.L. Thungdil Anal Khullen Village, P.O. & P.S.
Chandel, Manipur-795127 ***Petitioner/s***

- Versus -

1. The Union of India, represented by Secretary to Ministry of Home Affairs, Government of India, North Block, New Delhim C/o 99 A.P.O., Pin-930098.
2. The Director General, Assam Rifles at Directorate General Assam Rifles, Recruitment Branch, Laitkor Shillong, Meghalaya-793010 C/o 99 A.P.O., Pin-930098.
3. The Commandant, Assam Rifles Training Centre and School, Dimapur, Nalalang-797115, C/o 99 A.P.O., Pin-930098.

.....Respondent/s

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioners	::	Ms. L. Sillori, Adv.
For the respondents	::	Mr. Kh. Samarjit, DSGI & Mr. Armananda, Adv.
Date of Hearing	::	26.05.2025
Date of Judgment and Order	::	19.12.2025

JUDGMENT & ORDER (CAV)

[1] Heard Ms. L. Sillori, learned counsel for the petitioner and Mr. Kh. Samarjit, learned DSGI assisted by Mr. Armananda, learned counsel for the Union of India.

[2] This writ petition has been filed inter-alia praying for setting aside the discharge order dated 21.01.2006 and communication dated 27.04.2018 and to direct the respondents to constitute a fresh Medical Board to examine the petitioner for re-instatement in service or grant Disability Pension to him.

[3] The brief fact of the case is that the petitioner was enrolled as a General Duty Recruit in the Assam Rifles on 09.04.2005 and was detailed for military training at 39 GTC, Varanasi after passing all the test in the recruitment process. During his training, he was suffered from fever and admitted to Military Hospital Varanasi on 26.08.2005 and further, he was referred to Military Hospital Allahabad on 31.08.2005 and the Military Hospital Mamkum on 16.09.2005 where he was diagnosed with a case of Bronchiectasis (Lt.) Lower Lobe and the Chief medical Officer of the hospital recommended invalidation of the petitioner on medical grounds vide communication dated 02.01.2006.

[4] Based on the recommendation dated 02.01.2006 of the CMO of the Military Hospital, Mamkum, the respondents issued the discharge certificate dated 21.01.2006 invalidating the petitioner from service without referring the case to the Release Medical Board as required under law. As such, the petitioner submitted appeal dated 12.02.2009 against the discharge order with a request to take him back in service, as he was physically and mentally fit for service on recovery. The petitioner submitted reminders dated 09.04.2009 and 21.04.2009 to the respondents for

constituting a Review Medical Board for re-examination for taking him back in service.

[5] The petitioner submitted a representation dated 21.09.2017 to respondent No. 2 to consider his case in the light of the appeal and reminders submitted by him for taking back in service for payments of invalid/disability pensions. By a communication dated 10.04.2018 of the Commandant, the matter was referred to respondent No. 2 by forwarding representation along with appeal and its reminders and by another communication dated 27.04.2017 (impugned herein), the respondent No. 2 informed the petitioner that as per the recommendation of the Release Medical Board, his percentage of disability is "NIL" due to diagnosed Bronchiectasis (LT) Lower Lobe which is aggravated by military service and in terms of pension Rules. 3-A(1) & Pr. 9(3) of the CCS (EOP) Rules, the disability should be attributable to or aggravated by service condition with minimum of 60% disability. Hence, the petitioner is not entitled to pension of any kind.

[6] The respondents filed counter affidavit stating that the Assam Rifles Training Centre and School, based on the opinion rendered by Classified Specialist of Military Hospital, Namkum, the Invalidation Medical Board was convened on 06.01.2006 and the Medical Board found that the petitioner was permanently unfit and incapacitated to attend training further and recommended him for invalidation from service in Low Medical Category P-5. As such, the petitioner was invalidated out of service on 31.01.2006 on medical grounds as a case of Bronchiectasis (Lt) Lower Lobes vide order

dated 16.01.2006 issued by the Assam Rifles Training Centre and School and his request for constituting a fresh Medical Board to examine him for reinstatement in service is not feasible as more than 12 years has already elapsed since his discharge and he is not entitled for reinstatement into service for any reason. It is stated that the Disability Pension of the Assam Rifles personnel is governed under Central Civil Services (Extraordinary Pension) Rules, 1939 and to be eligible for Disability Pension, the disability of the employee is required to be made Attributable to Government Service or Aggravated by Service by the Medical Board in terms of Rule 3-A(1)(a) of CCS (EOP) Rules 1939. The disability of the petitioner "Bronchiectasis (LT) Lower Lobe" was declared Aggravated by Service by the Medical Board and the percentage of disability was assessed to be "Nil" for lifelong by the Invalidation Medical Board and hence, he is not eligible for grant of Disability Pension under CCS (EOP), Rules, 1939. It is prayed that the writ petition may be dismissed as being devoid of merit.

[7] The petitioner filed rejoinder affidavit wherein it is stated that the petitioner was never informed of the alleged Invalidation Medical Board and the discharge certificate was issued merely on the recommendation of the specialist doctor as revealed in the history sheet at Annexure-A/1 dated 02.01.2006. It is stated that the petitioner was medically fit in all respect and was enrolled in the Assam Rifles on 09.04.2005. However, during the course of training, the disease contracted by the petitioner was due to extreme and tough condition of military service. It was held that a disease which has led to an individual's discharge will ordinarily be deemed to have arisen in

service if not it was made at the time of individual's acceptance for military service. It is also stated that there is no delay and laches in filing the present petition as alleged inasmuch as payment of pension is a continuing cause of action as it has been held that everyday action constitutes a fresh cause of action and the fault is not on the part of the petitioner but the respondents who did not pay the petitioner his invalid pension.

[8] Ms. L. Sillori, learned counsel for the petitioner submits that the petitioner was inducted into force after successfully completed all the tests including the rigorous physical scrutiny and ailment detected during the training period was not a pre-existing problem with the petitioner. It is urged that the bronchiectasis (Lt) lower lobe was contacted during the training period and the petitioner was declared as medically unfit to continue in service and was accordingly discharged from service on medical ground. Learned counsel has pointed out that the reason for discharge is for a disability contacted during service, i.e., during the training period. As per medical report, the percentage of disability is NIL and the petitioner was held not entitled to disability pension. It is submitted that considering the pitiable situation of the petitioner who has been discharge from service on medical ground thereby disentitling him for reinduction in active service and also non-entitlement of disability pension, this Court may pass some appropriate order that the petitioner may be compensated for the remainder period of his life. Regarding the question of delay, it is pointed out that the petitioner has been pursuing the authority by filing various representations, appeal, etc. and the

cause of action finally arose on 27.04.2018 when the authority rejected his representation.

[9] Per contra, Mr. Kh. Samarjit, learned DSGI submits that the petitioner was discharged from service on medical ground. As his disability percentage is recorded NIL in the medical report, the petitioner is not entitled to disability pension and also normal pension is not available to him as his total service tenure was only for a period of 8 months. It is pointed out that the petitioner is aware of the situation and he signed an undertaking dated 03.05.2005 [Annexure- R-7 of counter affidavit] that he would be liable to be discharged, if found to be unfit to become an efficient soldier during course of training. It is urged that the writ petition filed after 13 years of discharge is hopelessly barred by principle of delay and laches. It is prayed that the writ petition be dismissed being devoid of any merit.

[10] This Court has considered the materials on record and submissions made at bar. Since the petitioner was selected in the force after passing all the requisite tests, it can safely be presumed that ailment of bronchitis was not a pre-existing medical condition with the petitioner prior to his induction for training as a sepoy in Assam Rifle. This will be evident from the medical board report annexed along with the Invalidating/Release order dated 24.12.2005. Medical Board did not give a clear opinion that the ailment was a pre-existing condition. The problem started and became aggravated during the training at Varanasi wef 26.08.2005. The petitioner was inducted to the training course on 09.04.2005. At the time of discharge, the petitioner was not even 20 years of age (Date of Birth: 02.03.1986). Since

his decree of disability as per medical report was NIL with life-long disablement, he was held not entitled to disability pension and due to short tenure of 8 months of service, the petitioner has not completed the minimum service period for normal pension. A young boy who joined Assam Rifle at a tender age of 19 years was discharged from service on medical ground without any service benefit before completing the age of 20 years.

[11] This Court is conscious of the fact that expert medical report has to be accepted by the courts, unless the same seems to be patently arbitrary and perverse. On perusal of the medical board report, it is seen that the report did not indicate clearly the problem of bronchitis was a pre-existing condition with the petitioner. It is found the problem first occurred on 26.08.2005 during the training and the problem would continue life-long, thereby ruling out his reinduction into the force. In the circumstance and without doubting the correctness of the medical report, this Court is of the view that the medical problem started and aggravated during the training. However, the relief for constitution of new medical board and re-induction into force cannot be acceded to as the earlier board opined that the bronchitis problem would be a life-long. Taking into account the disentitlement both for disability and normal service pensions and in the peculiar facts and circumstances of the present case, the respondents are directed to consider the case of the petitioner as to whether he can be adjusted in some non-combat assignment, i.e, on civil side such as mali, peon or other assignment commensurate with his education and fitness. The

said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

[12] In terms of observations and directions in para 11 above, the writ petition is disposed of.

[13] Send a copy of this order to the Director General, Assam Rifles at Shillong for information and doing needful.

JUDGE

FR/NFR

Kh. Joshua Maring

**KH.
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by KH. JOSHUA
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