

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 12876 of 1997(O&M)

Date of decision : 29.04.2015

Nachhatar Singh

..... Petitioner

versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Abhishek Arora, Advocate for the petitioner.
Ms. Anita Balyan, Senior Panel Counsel for the
respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

The claim in this writ petition is for grant of disability pension.

The petitioner joined the Punjab Police in the year 1965 but after 9 years 6 months and 5 days he was discharged on medical grounds since he was suffering from epilepsy. He filed his claim for disability pension but the same was rejected on the ground that it was given to persons completing 20 years of service.

The case set up by the respondents is that epilepsy is not a disease which can be caused or aggravated by service conditions, therefore, the petitioner is not entitled to disability pension.

Learned counsel for the petitioner has argued that the petitioner was found medically fit at the time of his entry into military service and he developed the disease of epilepsy during service and, therefore, he cannot be denied disability pension. In support of his case he has relied upon **Ex.PTR Dhanpat Rai No. 3148312 v. Union of India** reported as 2002(3) SCT 94. The Court came to the conclusion that the only inference is that the disease is attributable or aggravated from military service and the disabled military personnel(the petitioner in that case), cannot be denied disability pension.

Learned senior panel counsel for the respondents has, however, argued that the plea of the petitioner was declined as far back as 23.10.1978 but this writ petition was filed only on 26.08.1997 and, therefore, there is delay of almost 19 years in filing the same.

In **Ex.PTR Dhanpat Rai No. 3148312 v. Union of India(supra)** his lordship also held that delay may disentitle him to get all the arrears which would become due but limited relief can be given to him for a period of 38 months prior to the date on which the petition was presented but the same cannot be made a ground for denying relief to the disabled military personnel to which he has been found to be entitled.

In the circumstances the case of the present petitioner is squarely covered by the aforesaid decision of this Court. Resultantly the petition is allowed. The respondents are directed to work out the pensionary benefits and release the same to the petitioner within a period of three months from the date of receipt of a certified copy of

this order along with interest at the rate of 6% p.a. from the date/s the amount/s fell due. It is also made clear that in any case any amount is not paid within the aforesaid period, the petitioner would be entitled to claim the same with interest at the rate of 8% p.a. from the date/s the amount/s fell due. It is further ordered that the petitioner would be entitled to arrears for 38 only months prior to the date of filing of the petition.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

April 29, 2015
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