

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.15993 of 2011 (O&M)

Date of decision : 09.07.2015

Ex. Const. Harchand Singh

..... Petitioners

versus

Union of India and Ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Balwinder Singh, Advocate for the petitioner.

Mr. Udit Garg, Central Government Standing 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)

Petitioner was serving in the Border Security Force since 01.10.1968. After cessation of hostilities in 1971, the petitioner was admittedly deployed at Tangdhar sector where he suffered a mine blast injury. He was treated at Command Hospital in Pune and at the time of his discharge therefrom on 15.01.1974, his disability was assessed by the Doctors to be 40%. Thereafter, he was put in Category EEE and was discharged from the service on medical grounds. At the time of his discharge, he was subjected to be examined by a Medical Board, which, however assessed his disability at 20%. Till the year 1982, the petitioner kept requesting the respondents for grant of disability pension but thereafter he fell inexplicably silent till he again revived the matter after two and half decades. Having not got any relief, the petitioner now is before this Court.

The respondents do not dispute the factum of injury but they only seek to non-suit the petitioner on the ground of delay.

It is a case where the cause of action is continuing and the delay cannot erode the right of the claimant. In the circumstances, once the respondents have accepted that the petitioner received injury during his duty, his claim for disability pension on account of having suffered permanent disability of 20% cannot be denied completely. Thus, the respondents are directed to work out the disability pension due to the petitioner on account of permanent disability of 20% and pay the same to him. In view of the delay being caused by the petitioner, the arrears would be restricted to a period of three years and two months i.e 38 months prior to the date of filing the petition. The respondents are directed to make the due payment to the petitioner within a period of three months from the date of receipt of a certified copy of this order, failing which, he would be entitled to claim the aforesaid amount with interest @ 8% from the date the amount (s) fell due till the date of payment.

Petition stands allowed.

July 09, 2015
manoj

(AJAY TEWARI)
JUDGE