

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.20766 of 2014
Date of Decision: 15.01.2015.

Ram Niwas

.....Petitioner

Versus

Union of India & others

.....Respondents

CORAM:HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gaurav Sethi, Advocate
for the petitioner.

Mr. Maharaj Kumar, Advocate
for 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?*

SURYA KANT, J. (ORAL)

This writ petition is directed against the order dated 18.02.2014 (Annexure P-4) passed by Armed Forces Tribunal, Chandigarh Regional Bench at Chandimandir, (hereinafter referred to as 'the Tribunal') whereby T.A. No.135 of 2012, arising out of Regular Second Appeal preferred by Union of India-authorities and which was transferred by this Court to the Tribunal, has been allowed and judgments and decrees passed by the trial Court as well as the First Appellate Court have been set aside thereby rejecting the petitioner's claim for disability pension.

The Tribunal has vide its impugned order held that the petitioner was found suffering with the disability of 'Anxiety Neurosis' and as per the Invalidating Medical Board, the said disability is neither attributable to nor

it was aggravated by the military service.

It is undeniable that no such ailment was detected at the time of enrolment of the petitioner in the Army. It is obvious that the aforesaid disability was suffered and or got aggravated when the petitioner was in active military service. There shall in any case be a presumption that the petitioner suffered the disability or had got it aggravated while he was undergoing the training after the recruitment. Such a presumption ought to have been drawn unless the respondents were able to prove with cogent material some different circumstances.

The Tribunal does not appear to have formulated its view on consideration of entire case-law on the subject.

For the reasons aforestated, the matter requires reconsideration by the Tribunal.

We thus allow this writ petition, set aside the order dated 18.02.2014 (Annexure P-4) and remit the case to the Armed Forces Tribunal, Chandigarh Regional Bench at Chandimandir, for a fresh adjudication after taking into consideration the original records as well as the entire case-law on the subject.

The parties are directed to appear before the Tribunal on 23.02.2015.

(SURYA KANT)
JUDGE

15.01.2015
Atik

(RAJ MOHAN SINGH)
JUDGE