

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

CWP No. 9666 of 2011(O&M)

Date of decision : 14.05.2015

Man Pal

..... Petitioner

versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Navdeep Singh, Advocate for the petitioner.
Ms.Anjali Kukkar, Advocate 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)

By this petition the petitioner has claimed disability pension.

The petitioner was enrolled in the Army and suffered an accident while on leave which rendered him disabled. Having been denied the benefit of disability pension he has come before this Court.

The argument raised by the respondents is that since the petitioner was on leave the injury suffered by him could not be attributed to or be considered to be aggravated by his service conditions. It has also been argued that in some cases of the Armed

Forces this benefit may have been given, but the petitioner was serving

in the Assam Rifles. Learned counsel for the petitioner has relied upon a decision of this Court in **Union of India and others v. Smt.Roshni Devi , LPA No. 613 of 2010 decided on 24.08.2010** which is annexed as Annexure P-6. In that case a personnel of the BSF had met with an accident while on leave and this Court had held that even though he was not from the Armed Forces, yet the rules being pari materia he was granted the benefit. Learned counsel has also relied upon a later decision in **CWP No.17792 of 2013, Barkat Masih v. Union of India and others** decided on 23.5.2014 as well as the judgment of the Hon'ble Supreme Court in **Civil Appeal No. 2903 of 2011, Pension Sanctioning Authority PODA(P) Allahabad and others v. M.L.George, Ex. SGT** decided on 17.09.2014. In all these cases benefit has been granted to the personnel. In the circumstances the decision relied upon by learned counsel for the respondents in **Civil Appeal No. 3686 of 2012, Union of India v. Talwinder Singh**, decided on 20.04.2012 would not hold the field since that decision was considered by this Court in Barkat Masih's case(supra). Further the judgement in M.L.George's case(supra) has come subsequently and binds this Court. Learned counsel for the respondents has, however, pointed out that the cause of action accrued to the petitioner in the year 2000 but he has approached this Court after 11 years and the petition is barred by delay and laches. No doubt there is delay in filing this petition but since it is a recurring cause of action, the petition would not be completely barred. However, the actual benefits would be limited to a period of 38 months prior to the date of filing of the present petition.

No other argument has been raised.

Petition is allowed. The respondents are directed to grant disability pension to the petitioner within a period of two months from the date of receipt of a certified copy of this order failing which the petitioner would be entitled to claim the with interest at the rate of 8% p.a. from the date/s the amount/s fell due till the date of payment. However, the arrears would be limited to a period of 38 months prior to the date of filing of the present petition.

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

(AJAY TEWARI)
JUDGE

May 14, 2015
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