

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5219 of 2009

Ajit Kumar Lakra, S/o. Late Rainu Lakra, Aged about 38 years, Ex-service man R/o. Tukutola, Post Bhitghara, Tahsil Bagicha, District Jashpur, Chhattisgarh

---- Petitioner

Versus

1. Union of India, through: Secretary, Department of Home Affairs, New Delhi.
2. Directorate General, Central Reserve Police Force, Lodhi Road, New Delhi.
3. Inspector General of Police, Special Sector, CRPF, New Delhi-54.
4. Deputy Inspector General of Police, CRPF, Raipur.
5. Deputy Inspector General of Police, CRPF, R/o. Camp Group Centre, CRPF, Bharni, Bilaspur, Chhattisgarh
6. Commandant 173 Batalian, CRPF, Narsinghgarh, Agartala, (Tripura West).

---Respondents

For Petitioner	:	Mr. K.N. Nande, Advocate
For Respondent No.1	:	Mr. Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

22/08/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 24.07.2009, whereby the petitioner has been invalidated from service after giving a month's notice w.e.f. 30.09.2008.
2. The facts of the case is that the petitioner working on the post of Constable (GD) under the Central Reserve Police Force (CRPF) sustained injuries on his right ankle on 14.12.1999. The petitioner was admitted for treatment in the hospital of the respondents, where he was under treatment for one full year. The petitioner thereafter appeared before the Departmental Rehabilitation Board, who decided to retain the petitioner in service on sympathetic ground till he becomes eligible for invalidation pension.

3. The petitioner was accordingly retained in service and was given light duty. The petitioner again appeared before the Rehabilitation Medical Board in the year 2008, wherein after examination the medical board gave an opinion on 30.07.2008 that he was not fit for actual combat duty and has to be invalidated from the force on medical ground. Accordingly, one month's notice was served upon the petitioner for representing against the opinion of the medical board. The petitioner did not make any representation against the opinion given by the medical board and finally the petitioner was invalidated from service after completion of one month's notice period from 30.09.2008.
4. The petitioner thereafter again made a representation to the Director General, who in turn again conducted a review medical examination on 28.05.2009. This time on reassessment it was found that the percentage of disability of the petitioner has increased from 54% to 55.4% and the review medical board also opined that the petitioner is not fit for combat duty and based on the review medical board's opinion, the subsequent representation of the petitioner also stood rejected vide the impugned order Annexure P/1 dated 24.07.2009. The review medical examination was conducted in the light of the order passed by this Court in WP No. 472/2009 decided on 27.01.2009, where the petitioner was made to make a representation for ventilating his grievances, which the authorities would consider on its own merits.
5. The counsel for the petitioner submits that in the medical examination that was conducted, it was revealed that the petitioner is fit for discharging light duty and that he was only unfit for combat duty and therefore the respondents should not have invalidated the services of the petitioner on medical ground. The petitioner further referred to a decision of the Hon'ble Supreme Court in the case of **"Kunal Singh v. Union of India" (2003) 4 SCC 524**, wherein the

Hon'ble Supreme Court had granted some protections to the petitioner therein by setting aside the order of invalidation and ordering for grant of light duty.

6. The counsel appearing for the respondent however opposing the petition submits that the plain reading of the impugned order would itself show that the case of the petitioner has been taken note of by the respondents sympathetically. According to the counsel for the Union of India, the petitioner suffered injury on 14.12.1999 and the order of invalidation was passed only in the year 2008, thus the petitioner for almost 10 years was kept in service with light duties and it is only thereafter that the petitioner has been sent on invalidation from service on medical grounds.
7. The counsel for the respondent further submits that it is a case where the sympathy was shown to the petitioner enabling him to complete the required length of service for getting the invalidation pension or else the petitioner in the year 1999 itself had become unfit for combat duty and he could have been discontinued from service and thus there is no scope of interference with the impugned order.
8. Having heard the contentions put forth on either side and on perusal of record, so far as the factual details are concerned, those are not in dispute on the fact that the petitioner suffered an injury in the year 1999, the petitioner was under hospitalized treatment for well over one year from 1999 onwards. The petitioner was sent for medical examination in the year 2003, wherein it was found that he was unfit for combat duty. The opinion of the medical board was to keep him in service enabling him to acquire the requisite length of service for invalidation pension. This opinion was acted upon by the petitioner and he was given light duty till the year 2006, when he was again sent for medical examination and the medical board still found the petitioner unfit for

combat duty and since by that time the petitioner had attained the requisite length of service for pension, the Department took steps for placing the petitioner on invalidation pension w.e.f. 30.09.2008.

9. Now coming to the judgment of the Hon'ble Supreme Court in the case of "Kunal Singh" (supra), this Court is of the opinion that referring upon the said judgment the Hon'ble Supreme Court again in the case of **"Union of India and others v. Dileep Kumar Singh" (2015) 4 SCC 421** has held that the benefit extended under the provisions of the Person with Disabilities Act, 1995 would not be applicable upon the persons working in the Armed Forces as he falls under the exemption category. The Union of India has itself issued a notification as early as on 10.09.2002 whereby it has been specifically notified that the category of post of convectional person in the Central Paramilitaries Forces like CRPF, BSF, ITBP, CISF and Assam Rifles would stand exempted from the applicability of the provisions of the Persons with Disability Act, 1995. In the light of the notification dated 10.09.2002, the petitioner admittedly stands exempted from the applicability of the Act of 1995, particularly the Section 47. This exemption part and the challenge to the same already stands affirmed by the Hon'ble Supreme Court in the case of **"Dileep Kumar Singh"** (supra).
10. Under the given circumstances, this Court does not find any strong case made out by the petitioner in the present case calling for an interference with the impugned order (Annexure P/1). The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge