

\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9579/2017**

UTTAM ADHIKARI SURENDER SINGH Petitioner
Through: Major K Ramesh, Advocate with
Ms.Archana Ramesh, Advocate

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms.Saroj Bidawat, Advocate with
Mr.Amit Dogra, Advocate for R-1 to
R-3 with Commandant M.K.Singh.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

% **ORDER**
20.03.2019

1. The Petitioner sought voluntary retirement from the Coast Guard after completion of 23 years and 1 Month of service on 1st September 2016. At the time of his discharge, the Petitioner was in a low medical category S2A2 for two disabilities viz., Primary Hypertension and Diabetes Mellitus Type-2.
2. The Release Medical Board quantified the disability at 40% and further clearly indicated that the disabilities, although not caused by the service, were 'aggravated' by the service.

3. The question that arises in the present petition is whether the Petitioner is entitled to disability pension?

4. Counsel for the Petitioner submits that the Coast Guard is very much part of the Armed Forces of the country; it is an extended arm of the Navy and therefore whatever is applicable to the Armed Forces should ipso facto apply to the Coast Guard as well. According to him although the CCS (Extra Ordinary Pension) Rules, 1972 [CCS (EOP) Rules] applies to the Coast Guard and Rule 9 (2) thereof envisages payment of disability pension only where the government servant is “boarded out of government service on account of his disablement”, in terms of a letter dated 25th September 20019 issued by the Ministry of Defence (MoD) it has been clarified that disability pension will be given even where the person ceases to be in service on account of voluntary retirement. It is accordingly contended that the benefit of the said decision of the MoD should be extended to the Coast Guard as well.

5. Learned counsel for the Petitioner further points out that the criteria for entitlement for disability pension is satisfied in the present case in as much as the disability is aggravated by the service and the percentage of disability is 40%. In terms of the applicable rules as far as Coast Guard is concerned, if the percentage of disability is less than 50% then it should be reckoned for the purpose of computation of the disability pension as 50%. He accordingly submits that the Petitioner should be granted 50% disability pension.

6. The difficulty in accepting the above submission is two-fold. One is that

under Rule 9 (2) of the CCS (EOP) Rules, it is only where the government servant is boarded out on account of his disablement that he would be entitled to disability pension. In the present case, the Petitioner sought voluntary retirement which was accepted. Secondly, although the letter dated 29th September 2009 clarifies that members of the Armed Forces would be entitled to disability pension even when they retire voluntarily, there is no similar decision of the MoD specific to the Coast Guard.

7. Counsel for the Petitioner referred to a letter dated 12th August 1980 of the MOD addressed to the Director General, Coast Guard *inter alia* stating that “the rules prescribed for grant of pensionary benefits to the civilians paid from defence services estimates are to be adopted for Coast Guard Personnel ‘mutatis-mutandis’.” The extension of disability pension to members of the Armed Forces upon retirement whether voluntary or otherwise is only by way of a letter dated 29th September 2009 and not by way of amendment to the CCS EOP Rules. The above letter dated 12th August 1980 is, therefore, not of any assistance to the Petitioner.

8. Consequently, the Court is unable to grant the relief sought in the present petition. However, the Court directs that if the Petitioner makes a representation to the MoD not later than 15 days from today for extension to the Coast Guard of the same benefit granted to the retired personnel of Armed Forces by the letter dated 29th September 2009, then such representation would be considered by the MoD and a reasoned decision thereon be communicated to the Petitioner within a period of six weeks thereafter. It will be open to the Petitioner, if aggrieved by such decision, to

seek appropriate remedies as will be available to the Petitioner in accordance with law.

9. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 20, 2019

sr