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

+ **W.P.(C) 14173/2021**

ANAND BALLABH

..... Petitioner

Through **Mr.Aman Malik, Advocate.**

versus

UNION OF INDIA AND ORS

..... Respondents

Through **Mr.Rahul Narang with Mr.Manoj
Pant, Advocates.**

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Date of Decision: 13th December, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVING CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.44698/2021

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 14173/2021

1. Present writ petition has been filed seeking a direction to the respondents to grant disability pension to the petitioner on account of Right Hemiparesis which is allegedly attributable to the Military Service and for setting aside the notice dated 30th January, 2021 issued by the respondents for compulsorily retiring the petitioner.

2. Learned counsel for the petitioner states that vide the impugned notice, the petitioner has been compulsorily retired from service with three

months notice on account of partial paralysis, which has left the petitioner physically unfit to continue in service. He states that the respondents have not considered the fact that the said illness has been caused to the petitioner on account of Hypertension which is attributable to the harsh working conditions. He emphasizes that the respondents have denied disability pension to the petitioner.

3. Learned Counsel for the petitioner submits that any disorder not mentioned at the time of enrollment is presumed to be attributed to or aggravated by military service. He further relies on the decision of the Supreme Court in the case of *Dharamvir Singh vs. Union of India (2013) 7 SCC 316* which has held that in the event of discharge from the service on medical grounds, onus to prove that the deterioration of health was not occasioned by the service conditions lies on the employer.

4. Having heard learned counsel for the petitioner, this Court finds that there cannot be a mechanical application of principle “any disorder not mentioned at the time of enrollment is presumed to be attributed to or aggravated by military service”. The Supreme Court in the case of *Narsingh Yadav vs. UOI, (2019) 9 SCC 667* has held that in every case it has to be ascertained whether the duties assigned to the individual might have lead to the disorder.

5. This Court finds that in the present writ petition the medical record of the petitioner has not been annexed. Accordingly, the present writ petition is disposed of with a direction to the petitioner to file a representation seeking grant of disability pension with the respondents within four weeks. In the event, such an application/representation is filed within the stipulated period, the same shall be decided by the respondents by way of a reasoned

order in accordance with law, within a further period of six weeks. The rights and contentions of all the parties are left open.

MANMOHAN, J

NAVIN CHAWLA, J

DECEMBER 13, 2021
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