

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

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CWP-21490-2017

Date of Decision :13.05.2022

Vikram Singh**..Petitioner****Versus****Union of India and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rajesh Sehgal, Advocate for
Mr. Bhim Sen Sehgal, Advocate for the petitioner.

Mr. Rajiv Verma, Advocate for respondent-UIO.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed for the grant of disability pension to the petitioner, which benefit has been declined to him by the respondents vide order dated 03.03.2017 (Annexure P/7) while filing the legal notice dated 04.06.2016 submitted by the petitioner.

The facts leading to the filing of the present petition are that; the petitioner was enrolled in Central Reserve Police Force on 15.03.1979 and after the successful completion of training, he was inducted into 89th Battalion. When the petitioner was posted in Tarn Taran (Punjab), a convoy, in which, the higher officers of the CRPF were travelling was ambushed by the terrorists and in the said encounter, the petitioner suffered bullets on his leg and he remained admitted in hospital for a period of four months and had to get his leg operated numbers of time and a steel rod was inserted into his leg to enabled him to walk. Thereafter, keeping in view the fact that there was a steel rod inserted in the leg of the petitioner, he could not perform his duties to the best of his abilities, he opted for discharge

from service on the medical grounds by making request dated 30.11.2000. The said request of the petitioner was accepted and the petitioner was discharged from service w.e.f. 1.12.2000. It is worthwhile to note that at the time of the discharge of the petitioner, he was assessed in a lower medical category keeping in view the injury, which he had suffered in the year 1989.

After the petitioner was boarded out, he was only granted normal pension and not the extra ordinary pension on the ground that though, the petitioner suffered injury while in active service but, he was discharged on his own request, therefore, he cannot be granted benefit of extra ordinary pension. Reply to the said effect was given to the petitioner by the respondents vide order dated 03.03.2017 (Annexure P/7), which order is under challenge in the present petition.

After notice of motion, the respondents have filed reply, in which respondents reiterated their stand that though, the petitioner suffered bullet injuries while in active service at the hands of the terrorists but, as he was boarded out from service on his own request, the petitioner cannot be granted benefit of extra ordinary pension.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question which has been raised in the present petition is whether an employee, who suffers injuries while in active service, is entitled for the grant of extra ordinary pension, even if, the said employee is boarded out of service on his own request.

This question is no longer res integra as this Court has already decided the said question more than once. While passing order in CWP-

10174-2006 titled as **Naik Amrik Singh vs. Union of India and others** on

01.04.2008 a Coordinate Bench of this Court held that even if the discharge of an employee is on compassionate ground, the employee does not lose his/her right to claim disability pension, which is attributed and aggravated on account of military service. Relevant paragraph of the judgment is as under:-

“Admittedly, the disability suffered by the petitioner is attributable to and aggravated by military service. The question involved is - whether on account of seeking discharge on compassionate ground, the petitioner has lost his right to claim disability pension although the disability is attributable and aggravated on account of military service. Had the petitioner been invalidated out of military service on account of 20 % disability for life due to Gun Shot Wound suffered by him during enemy action in Kargil Sector during Operation RAKSHAK, he would have been granted the disability pension along with service element of pension. Merely because the petitioner has attained discharge on compassionate ground although his disability is attributable to and aggravated by Army service, it will not be a ground to reject his claim of disability pension.

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For the aforesaid reasons, we allow this writ petition and direct the respondents to grant disability pension

The same question again came up for consideration before this

Court in **CWP-15227-2007** titled as **Jaggar Singh vs. Union of India and others** and this Court vide order dated 11.05.2009 by placing reliance on **Naik Amrik Singh's case (Supra)** held that claim for the grant of disability pension cannot be denied merely because discharge of the official concerned was on administrative ground and not on the medical ground. Relevant paragraph of the judgment is as under:-

“In the case in hand, it is the admitted case that the petitioner was serving the Indian Army in Operation RAKSHAK. While on duty, an IED Blast occurred, which caused fracture on the left lower limb of the petitioner, resulting in disability. It is a clear case which would fall within the four

corners of disability which is attributable to military service. The case of the petitioner, rather, is that of a Battle Casualty. The petitioner became disabled in line of duty while serving the nation and, therefore, at the time of discharge, for whatever reasons, the petitioner was a disabled man. It is not the case of the respondents that the petitioner suffered disability because he had indulged in some illegal act that was contrary to the Army Rules and Regulations.

Considering the peculiar facts and circumstances of the case and as it is the admitted case of the respondents that the petitioner had suffered the disability which is directly attributable to military service, in my considered opinion, the claim of the petitioner for disability pension cannot be denied because he was discharged on invoking the provisions of Rule 13(3), Item III (v) of the Army Rules, 1954. The discharge of the petitioner on administrative ground is de hors the claim of the petitioner for disability pension, he having been disabled while serving the nation.

In view of the above, this petition is allowed.

The respondents are directed to consider the case of the petitioner for grant of disability pension within 4 months of receipt of a certified copy of the order.

Though, the judgment in Jaggar Singh's case was challenged in LPA No.309-2010 but, the same was upheld by the Division Bench of this Court vide order dated 27.07.2010.

Keeping in view the settled principle of law noticed hereinbefore, the case of the petitioner is covered for the grant of disability pension as concededly the petitioner suffered injuries while in active service at the hands of the terrorists and he became disabled in the said incident. It is further conceded fact that after the said accident, the petitioner was categorised in a low medical category. That being so, the petitioner is entitled for the grant of disability pension even though, he was boarded out of service ultimately on his own request.

Learned counsel for the respondents has not been able to pinpoint any differentiating fact in the case of the petitioner from that of the

petitioners in Naik Amrik Singh's case (supra) and Jaggar Singh's case (supra).

Keeping in view the above, present petition is allowed. The petitioner is held entitled for the grant of disability pension from the date he was discharged from service.

No other point was raised by the learned counsel for the parties.

Let pension of the petitioner be refixed and the arrears, for which, the petitioner becomes entitled be calculated within a period of two months from the date of receipt of copy of this order and the same be paid to him within a period of next one month.

Petition stands allowed in above terms.

May 13, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No