

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

1

**RA-CW-271-2020
in CWP-21491-2020
Decided on : 20.05.2022**

Ravinder Kumar

... Applicant-review/petitioner

Versus

Union of India and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE RAJESH BHARDWAJ**

Present: Mr.G.S.Ghuman, Advocate, for the applicant-review/petitioner.

Mr.Rohit Verma, Advocate, for respondent Nos.1 to 4.

G.S. Sandhawalia, J. (Oral)

Review petition has been filed of the order dated 14.12.2020 whereby the writ petition was dismissed and the order dated 24.01.2011 passed by the Armed Forces Tribunal, Chandigarh Bench was upheld.

Counsel for the applicant-review/petitioner has tried to stress for review of the order on the ground that disability was attributed or aggravated during the service and therefore he is entitled for disability pension.

The reasoning to dismiss the writ petition was that it had been noticed that the Medical Board was of the opinion that the disability was neither attributable to nor aggravated by service and the disability existed before entering the service. It was in such circumstances the legal notice dated 22.06.2010 (Annexure P-2) which had been served for the said claim was replied on 10.07.2010 (Annexure P-3). The impugned order of the Tribunal dated 24.01.2011 (Annexure P-1) would also go on to show that the review-petitioner was enrolled on 28.04.2008 and in November, 2008 he felt pain in the right leg and was reported sick. On 30.11.2008, X-ray was taken which showed fracture of the right thigh. The disability was Chronic Osteomyelitis Right Femur (Tubercular sinus right thigh). The disability was assessed at 30% for life but was opined to be neither attributable to nor aggravated by military service.

In the reply filed to the review petition, counsel for Union of India has placed on record material to show that the petitioner was suffering from the said problem at an earlier point of time before entering into service and rather from the age of 14. The medical case-notes of the petitioner reads as under:

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-2-

“-22 yr. Older Male Rect.

-Transferred in Section Hospital, Gopalpur as a case of
TUBERCULAR SINUS

(R) THIGH (OLD) for Review.

-PRESENTING COMPLAINTS:

-Swelling around sinus (R) Thigh

-Occasional pain at site of sinus

PAST HISTORY

-H/O Tuberculous Osteomyelitis (R) Thigh at age 14 years for which
pt. took ATT for 06 months.

-Stopped ATT on adv. of treating physician.”

From the above, it would be clear that the petitioner had a past history of the disease which led to the fracture on which account, he had been invalidated thereafter. If it is so, the reasoning which was arrived at while dismissing the writ petition cannot be said to be suffering from any infirmity or illegality which would bring the case within the provisions of review jurisdiction which is very limited and therefore, counsel for the review petitioner cannot be permitted to argue the matter afresh. Even otherwise, the order dated 24.01.2011 of the Tribunal was only challenged in the year 2020, after a period of 9 years and on the sole ground alone the writ petitioner was also liable to be dismissed.

In such circumstances, no case is made out to review the order dated 14.12.2020 and the review petition is accordingly dismissed.

**(G.S.SANDHAWALIA)
JUDGE**

May 20, 2022

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Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No

**(RAJESH BHARDWAJ)
JUDGE**