

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109)

CWP-5378-2022 (O&M)

Date of Decision : May 05, 2022

Bhim Singh

.. Petitioner

Versus

Union of India and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gaurav Sethi, Advocate, for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel,
for the respondents-UOI.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-5407-CWP-2022

As prayed for, the application is allowed.

CM-5413-CWP-2022

Present application has been filed for placing on record the reply on behalf of the respondents.

Keeping in view the averments made in the application, the same is allowed and reply on behalf of the respondents is permitted to be taken on record.

CWP-5378-2022

In the present petition, the grievance of the petitioner is that though he is 100% disabled for life w.e.f. 20.01.2006 but, he has not been paid pension commensurate to his disability.

The petitioner has averred that as per the opinion of the Civil Hospital where the petitioner got himself examined, a copy of which has been attached as Annexure P-13 dated 05.12.2007, the petitioner has been described as 100% disabled and therefore, the petitioner needs to be re-examined by the Medical Board to assess the correct disability suffered by the petitioner for the grant of the commensurate pension.

Though, notice of motion was not issued but a reply has been filed by the State keeping in view the advance copy given. In the reply, it is being mentioned that at the time of the discharge of the petitioner in the year 2006, the petitioner's disability was assessed at 70% by the Medical Board and the same might have been aggravated over a period but as there is no provision to reconstitute a Medical Board, no benefit can be extended to the petitioner. The relevant paragraph of the reply is as under:-

“ 6. That the contention of the petitioner that he we considered 100% disable on the basis of certificate by Civil Hospital, Narnaul, Haryana (Annexure P-13), after delay of 11 months from the date of invalidation and disability, cannot be taken into account on the basis that it might have intensified/aggravated over the period of time. Thus petition is rightly entitled to draw 70% disability pension as per the actual disability assessed by the Surgical Specialist (Medical Board) on 16.12.2005.”

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

It is a matter of fact that the petitioner suffered disability while in service and the said disability was assessed at 70% when the petitioner was discharged from service in the year 2006. Further, the petitioner has supported his contention through Annexure P-13 dated 05.12.2007 that he

was assessed to be 100% disabled in the year 2007 itself and the said fact is not being disputed on merits as the respondents themselves have stated that the disability suffered by the petitioner might have been aggravated later on. That being so, the aggravation, if any, at a later stage, is also attributable to the same accident which the petitioner suffered while in service.

In order to avoid any ambiguity about the percentage of the disability suffered by the petitioner and to safeguard the interest of the petitioner, the respondents are directed to get the petitioner medically examined again to assess the exact percentage of disability which is being suffered by the petitioner as of now. In case, after assessment by the Medical Board, it is proved that the petitioner is 100% disabled or his disability has increased from 70%, appropriate relief which needs to be given by the respondents be granted in favour of the petitioner including the enhanced disability pension, if any.

In order to assess the exact disability being suffered, the petitioner is directed to appear before the Base Hospital, Delhi for reassessing of his medical disability on 20.05.2022.

The present petition is disposed of in above terms.

May 05, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No