



\$~27

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

%

Date of decision: 05.08.2022

+ W.P.(C) 11618/2022

SMT RAMA ALIAS RAMO

..... Petitioner

Through: Mr.Sahil Jain, Advocate.

versus

UOI & ORS.

..... Respondents

Through: Mr.Jatin Singh, Senior Counsel for
UOI.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

CM APPL. 34480/2022 (exemption)

1. Allowed, subject to just exceptions.
2. The application is accordingly disposed of.

W.P.(C) 11618/2022

3. By way of the present petition, petitioner seeks quashing and setting aside of the order dated 31.01.2005 passed by respondent no.4 and directing respondent nos.1 to 3 to disburse the claim of the petitioner with interest @ 18% p.a. from 16.02.1987 till date of realization including family pension or other arrears if any.
4. Notice issued.
5. Mr.Jatin Singh, learned Senior counsel accepts notice on behalf of the



respondents and submits that the present petition has been belatedly filed.

6. In earlier round of litigation, the petitioner filed a writ petition being W.P.(C) 2066/2004 while disposing off a batch of matters on 05.03.2004 by directing the respondents to pay the disability pension in terms of ***“Ex. Ct. Jasbir Singh vs. Union of India: W.P.(C) No.5166/2000”*** decided on 06.03.2003, within a period of eight weeks. Pursuant to the said order, respondents passed an order on 31.01.2005 stating as under:

“2. It is evident from the records that you were enrolled in the Army on 25th September 1980 and invalidated out from service with effect from 12th February 1987 due to invaliding disease “PSYCOSIS 298”. The invaliding Medical Board which had physically examined you had considered your Invaliding Disease, “PSYCOSIS 298” as neither attributable to nor aggravated by military service and assessed the degree of disablement at 20% for two years. As per the medical board, your said disability was constitutional and not connected with service. As per Regulation 173 of Pension Regulations for the Army 1961, Part-I, disability pension is granted to an individual on his invalidment from service only when his disability is viewed as either attributable to or aggravated by military service by the Competent Medical Authority and is assessed at 20% and above. In your case, the Medical Board which had physically examined you had itself considered your ID as neither attributable to nor aggravated by military service and assessed the same at 20% for two years. Further, Hon’ble Supreme Court has also held that opinion of the Medical Board who has examined the individual should be respected and the ibid judgment has been applied by the Hon’ble Delhi Court in CWP 5166/2000 file by EX Ct Jasbir Singh vs. UOI. In view of the above, you are not entitled to grant of disability pension in terms of above Regulation.

3. As per Regulation 197, 198 and 200 of Pension



Regulations for the Army 1961, Part-I, if a person is invalidated out from service on account of disability which is neither attributable to nor aggravated by military service and the total qualifying service rendered by him is 10 years or more, he is entitled to grant of invalid pension which is equal to Service Element of disability pension. In case the qualifying service rendered by him is less than 10 years, he is entitled to the grant of invalid Gratuity only. Since you have rendered only six years and five months qualifying service, you are not entitled to the grant of Invalid Pension. Invalid Gratuity as entitlement has already been paid to you.”

7. Thereafter, petitioner filed a contempt petition being Cont. Cas(C) 442/2014 titled as **“Late Sh. Dhan Singh (Ex.-GNR) Through LR Smt. Ramo vs. Sh. R.K. Mathur & Ors.”** against the order dated 05.03.2004 and the same was dismissed as withdrawn on 02.07.2014. Thus, the order passed on 31.01.2005 by the respondents has not been challenged till date.

8. In view of above facts and the fact that the present petition has been filed against the order dated 31.01.2005 after about 17 years, present petition is dismissed as being not maintainable on the grounds of delay and latches.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

AUGUST 05, 2022/ab