



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

% ***Date of Decision: May 10, 2024***

+ **W.P.(C) 3884/2010**

ROSHAN LAL

..... Petitioner

Through: **Mr. K. C. Mittal and Mr. Keshav Poonia, Advs.**

Versus

UOI AND ORS.

.... Respondents

Through: **Mr. Dev. P. Bhardwaj, CGSC for UOI with ASI Sanjeev Kumar Singh (G.D.)**

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. 6450/2024 (for condonation of delay)

1. For the reasons stated in the application, the delay of 485 days in filing the review petition is condoned.
2. The application is disposed of.

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3. The petitioner/review applicant, after his selection to the post of Constable in Central Reserve Armed Force (**CRPF**) on 13.04.1988, was selected in National Security Guard (**respondent no-3**) and was relieved from service of the CRPF only on 10.10.1991 and joined the respondent no.3 on the same day. The petitioner then sustained mental injuries, which as per him, were due to his service leading to him being invalidated out of



service on 15.07.1993. This led to the petitioner filing W.P.(C) 3884/2010 before this Court seeking invalid pension in pursuance of *Rule 38* of the CCS (Pension) Rules, 1972. This Court, vide its judgment dated 15.07.2022, allowed the writ petition by directing the respondents to release the invalid pension of the petitioner from 15.06.1993 with interest @ 6% per annum.

4. It is, thereafter that the petitioner has now preferred the present review petition under Order XLVII read with Section 151 of the Code of the Civil Procedure, 1908 (*CPC*) seeking clarification of the judgment dated 15.07.2022 and, in fact, claiming entitlement to disability pension, in addition to the invalidity pension already granted to him therein.

5. Learned counsel for the petitioner submits that following the directions of this Court, the CRPF convened a Medical Board, which as per report dated 13.08.2019, concluded that the petitioner was suffering from 'Schizophrenia' for the last 26 years and assessed his disability percentage as 85%. As such, counsel for the petitioner submits that the petitioner should also be entitled to disability pension as well.

6. Considering the factual position involved, this Court, without according any opportunity to the learned counsel for the respondents as it is not felt necessary (due to the factors unfolding hereunder), and upon going through the pleadings as also based on the arguments addressed by the learned counsel for the petitioner, finds that the petitioner has been unable to make out any case, much less raise any grounds, for seeking review of the judgment dated 15.07.2022, which fall particularly within the ambit of Order XLVII of the CPC. Therefore, the nature of challenge made by the petitioner in the present review petition before this Court can neither be



adjudicated nor gone into.

7. Even otherwise, though the petitioner by way of the present review petition seeks to claim disability pension in addition to the invalid pension already granted to him vide judgment dated 15.07.2022, this Court finds that there are neither any averments in support thereof in the review petition nor the learned counsel for the petitioner has been able to show as to how and why the petitioner is entitled to disability pension in addition to the invalid pension already granted to him. Both the said factors are vital, especially as the concept /grant of invalid pension, *per-se* is, different from the concept/grant of disability pension. The petitioner cannot, thus, be allowed to seek both of them as a matter of right as it is.

8. Pertinently, this Court after adjudication of the case of the petitioner passed the aforesaid judgment dated 15.07.2022 with the observations as under:-

32. There is no iota of doubt that at the time of appointment in service by CRPF in the year 1988, petitioner was in good state of health and mind and his candidature for appointment to the post of Commando in NSG on deputation basis in the year 1991 was also subject to his fitness. The respondents have not been able to bring any document on record to show that petitioner had not sustained injuries/ disability during the course of his performing duties. The petitioner had sustained serious mental injuries while undergoing training /exercise as a part of the course for performing duty as Commando. The gravity of injury sustained by the petitioner left him 'unfit to join duty' and he was deported to his family. However, the respondents did not conduct any court of inquiry nor constituted the medical board to assess the disability of petitioner. Pursuant to orders of this Court, the medical board conducted medical examination of the petitioner and opined that the petitioner was suffering from Schizophrenia for last 26 years with multiple relapses and deteriorating course of illness.

9. It is, thus, reliance placed upon the judgement of the Calcutta High



Court in F.M.A. 1735/2003 dated 16.07.2012 titled as *Union of India vs Rajat Kumar Gogh* by the learned counsel for the petitioner is distinguishable on the facts and principles involved.

10. Lastly, since the learned counsel for the petitioner has been unable to satisfy this Court, either on the factual matrix involved or on the legal position of law, there is no reason for allowing the present review petition.

11. In view of the aforesaid deliberations and the settled position of law, especially keeping in view the limited scope of review under Order XLVII of the CPC, the present review petition is dismissed.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 10, 2024/rr