



W.P.No. 4504 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.4504 of 2019

K. Kichenemourthy

.. Petitioner

Versus

1. The Union of India

Represented by the Secretary to Government of India,
Ministry of Home Affairs,
New Delhi.

2. The Director General,
Central Reserve Police Force,
Block No.1, CGO Complex,
Lodhi Road, New Delhi – 110003,

3. The Deputy Inspector General of Police,
Central Reserve Police Force,
Group Centre, Avadi
Chennai 600 065.

4. The Senior Accounts Officer (pension)
Pay and Accounts Office,
Central Reserve Police Force, New Delhi.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of

India, praying to issue a Writ of Certiorarified Mandamus to call for the



W.P.No. 4504 of 2019

records relating to the impugned order passed by the 3rd respondent in his order No.P.III/40/1995-GC-Pen (GC) dated 03.08.2018 and quash the same and to direct the respondents to revise the pension according to the 6th pay commission from 01.01.2006 and 7th pay commission from 01.01.2016 to pay disability pension and also to pay Risk Fund for 100% disability with effect from 20.02.1995 and pass orders.

For Petitioner : Mr.A. Farhath Begum

For Respondents : Mr.K. Srinivasamurthy

ORDER

This petition is filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 3rd respondent in P.III/40/1995-GC-Pen (GC) dated 03.08.2018 and quash the same and direct the respondents to revise the pension according to the 6th pay commission from 01.01.2006 and 7th pay commission from 01.01.2006 to pay disability pension and also to pay Risk Fund for 100% disability with effect from 20.02.1995.



W.P.No. 4504 of 2019

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2. The case of the petitioner is that he has served more than 14 years of service in police force on various places. While performing physical training on 65 BN, CRPF at Arunachal Pradesh on 21.01.1983 he slipped and fell down and had a sever jerk in Lumbosacral region followed by backache and restricted movement at right hip joint numbness in right lower limb. Thereafter, he was suffering from failed back syndrome and was therefore, unfit to continue in service from 19.02.1995. Consequently, he was discharged from service with effect from 19.02.1995 with very meager medical benefits. Subsequently, the Regional Medical Board, Tamil Nadu examined the petitioner and reported that the petitioner was permanently incapacitated and assessed the disability at 100%. Thereafter, the petitioner was invalidated out from service w.e.f 19.02.1995 by giving one month notice and also sanctioned admissible normal invalidation pension at Rs.375/- p.m w.e.f 20.02.1995. Not satisfied with the same, the petitioner gave a representation on 28.08.1996 and he was directed to appear before the Review Medical Board at Hyderabad vide Directorate, CRPF New Delhi letter dated 18.02.1997. The Review Medical Board examined the petitioner on 26.04.1997 and assessed the disability of the petitioner at 30%.



Aggrieved over the same the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the petitioner has served in CRPF for nearly 15 years all over India in Terror areas. While so due to the physical inability, the petitioner was discharged from services. However, as per medical report the petitioner is eligible for disability pension. When this being the case the respondent ought to have considered the opinion given by the Regional Medical Board, Tamil Nadu that the petitioner was permanently incapacitated and granted 100% disability rather they have considered the medical opinion rendered by the Surgeon in Orthopedics who considered the disability of the petitioner as 30%.

4. The learned counsel appearing for the respondent submitted that on the basis of GOI Om No. 33.05.2009- P & PW(F) dated 10.12.2010 the petitioner is claiming higher disability pension is not correct. In the said Om it is clearly mentioned that the said orders will be effective only from 01.01.2006. Furthermore, application dated 04.01.2012 addressed to DIGP (well) Directorate, CRPF, New Delhi submitted by the petitioner



W.P.No. 4504 of 2019

for sanction of disability pension was thoroughly examined by the Directorate, CRPF, New Delhi intimated vide Directorate, CRPF New Delhi Signal No.W.V-152/2011-CWO-2 dated 02.04 2002 that “ his case does not come in the ambit on 2006 Disability Scheme”.

5. The learned counsel appearing for the respondents submits that on the basis of GOI Om No. 33.05.2009- P & PW(F) dated 10.12.2010 the petitioner is claiming higher disability pension is not correct. In the said Om it is clearly mentioned that the said orders will be effective only from 01.01.2006. Furthermore, application dated 04.01.2012 addressed to DIGP (well) Directorate, CRPF, New Delhi submitted by the petitioner for sanction of disability pension was thoroughly examined by the Directorate, CRPF, New Delhi intimated vide Directorate, CRPF New Delhi Signal No.W.V-152/2011-CWO-2 dated 02.04 2002 that “ his case does not come in the ambit on 2006 Disability Scheme”

6. The learned counsel for the respondent has filed a counter stating that inspite of repeated communication the petitioner has submitted applications again and again for sanctioning of high disability



W.P.No. 4504 of 2019

pension. Hence, the 3rd respondent vide had passed the impugned order.

Aggrieved over the same the petitioner has come up with this petition.

Hence, there is no necessity to interfere with the impugned order and this petition may be dismissed.

7. Heard both sides and perused the materials available on record.

8. On a perusal of records it is seen that the petitioner was treated in Unit Hospital of 65 B, but there was no improvement in his condition. Thereafter, the petitioner availed 60 days earned leave for treatment and surgery was done for Fenestration and Disc. Excision L4L5 for Disc Prolapsed. After the surgery the petitioner improved partially and reported at Group Centre Station Hospital, CRPF Avadi on 16.11.1983. Thereafter, the petitioner joined duty on 25.11.1983 and he had undergone JCC and was passed with AZ grading during the year 1991. The petitioner was promoted to the rank of Lance Naik w.e.f 31.05.1991. Subsequently the petitioner was transferred to 19 BN CRPF at New Delhi after completing 10 years of service in 19 BN CRPF New Delhi. It is pertinent to note due to the ailment of the petitioner he was not able to



W.P.No. 4504 of 2019

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perform his duty and the Doctor who treated the petitioner declared that the petitioner was suffering from “Failed Back Syndrome” he is unable to continue the service in CRPF. Accordingly, a Board of Medical Officers of CRPF assembled on 18.01.1995 at CRPF Station Hospital, Avadi, Madras and after analyzing the case on various aspects and declared the petitioner was permanently incapacitated for further service of any kind in consequence of “Failed Back Syndrome” and invalidated out from service w.e.f 19.02.1995 by giving one month notice and also sanctioned admissible normal invalidation pension at Rs.375/- p.m w.e.f 20.02.1995. The petitioner gave a representation on 28.08.1996 and he was directed to appear before the Review Medical Board at Hyderabad vide Directorate, CRPF New Delhi letter dated 18.02.1997. The Review Medical Board held on 26.04.1997 and disability in respect of petitioner was quantified as 30% and the same was communicated to the petitioner on 21.05.1997. The petitioner's case was also examined earlier in Directorate General, CRPF, New Delhi and rejected his claim vide their letter dated 08.02.2001.



W.P.No. 4504 of 2019

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9. Considering the facts of the case this Court is of the view that there is no error or infirmity in the impugned order and the same is perfect in the eye of law. Hence, this petition is devoid of merits and the same is liable to be dismissed. Accordingly, this petition is dismissed. No order as to costs.

20.12.2023

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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To

1. The Rural Development and Panchayat Raj Department,
Fort. St. George, Chennai 600 009.
2. The Director Commissioner,
Rural Development and Panchayat Raj,
Panagal Maligai, 4th Floor, Saidapet, Chennai 600 015.
3. The Collector, Tirunelveli District, Tirunelveli.
4. Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park Town, Chennai 600 003.
5. The Section Officer, V.R. Section,
High Court, Madras.



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W.P.No. 4504 of 2019

V.BHAVANI SUBBAROYAN, J.

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W.P.No.4504 of 2019

20.12.2023