

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(109)

CM-2155-C-2023 in/and  
RSA-5035-2003  
Date of Decision : 22.03.2023

Partap Singh

...Appellant

Versus

Union of India and others

...Respondents

***CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. Sushil Jain, Advocate for the appellant.

Mr. Shivoy Dhir, Senior Panel Counsel  
for the respondent-UI.

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**Harsimran Singh Sethi J. (Oral)**

**CM-2155-C-2023**

The present application has been filed with a prayer that RSA No. 5035 of 2003, which is pending for final adjudication for the last 20 years, be heard at an early actual date and decided, especially, as the same relates to the grant of disability pension.

Notice of the application to the counsel opposite.

Mr. Shivoy Dhir, learned Senior Panel counsel for Union of India, who is present in Court, accepts notice on behalf of the respondent-UI and raises no objection for the grant of prayer as made in the present application.

Keeping in view the facts mentioned in the application, the same is allowed and RSA No. 5035 of 2003 is taken up on Board for final decision.

**RSA-5035-2003**

The present regular second appeal has been filed by the appellant-plaintiff against the judgment and decree of the trial court dated 02.06.1998 by which, the suit filed by the appellant-plaintiff seeking pension after being discharged from the Central Reserve Police Force, was dismissed as well as against the judgment and decree of the lower appellate court dated 24.07.2002 by which the appeal preferred by the appellant-plaintiff was also dismissed.

Certain facts need to be mentioned for the correct appreciation of the controversy in hand.

The appellant-plaintiff joined the service of Central Reserve Police Force on 14.06.1966. He remained in the employment till 09.11.1970 when on the medical ground, the appellant-plaintiff was discharged from service. It may be noticed that the appellant-plaintiff was discharged due to the defective vision, due to which, it was found that the appellant-plaintiff was not in a position to discharge the duties of the Police Force.

After being discharged from the Central Reserve Police Force in November, 1977, benefits given were accepted by the appellant-plaintiff and no grievance was raised but after a period of 25 years, a civil suit was filed by the appellant-plaintiff claiming that as he became unfit during the service and it was the nature of service, which had led to the ailments, due to which, the appellant-plaintiff was discharged from service, hence, he was entitled for the grant of disability pension.

The suit filed by the appellant-plaintiff was dismissed on the

ground that not only the same was time barred but even otherwise, nothing has come on record that the disability due to which the appellant-plaintiff was discharged from service, was attributable to the service concerned. The reliance was placed upon the recommendation of the Medical Board, according to which, the poor eyesight of the appellant-plaintiff was not the result of the service, which the appellant-plaintiff had rendered for a period of four years with the Central Reserve Police Force.

Feeling aggrieved against the judgment and decree of the trial court, the appellant-plaintiff filed an appeal before the lower appellate court, which appeal was dismissed on 24.07.2002. Hence, the present regular second appeal.

Learned counsel for the appellant-plaintiff argues that in the present case, it is a conceded fact that the appellant-plaintiff was discharged from service due to the recommendation of the medical board hence, once the recommendation of the medical board described that the appellant-plaintiff was not fit to discharge the duties, the said reason has to correlate to the service which the appellant-plaintiff had performed with the Central Reserve Police Force and the medical ailment was the result of the service conditions under which the appellant-plaintiff had worked for a period of four years.

The argument, which has been raised by the learned counsel for the appellant-plaintiff has not been proved on the basis of the evidence, which has come on record. Nothing has come on record that the service condition of the appellant-plaintiff during the four years of his tenure was such that it effected the eyesight of the appellant-plaintiff so as to be

discharged on medical ground. Even the medical report, on the basis of which, the appellant-plaintiff was discharged from service, does not describe that the low vision of the appellant-plaintiff was due to the service condition.

In the absence of any evidence brought on record that the service condition under which the appellant-plaintiff was working, resulted in his low vision, which was made the basis of discharge his service, no benefit of the disability pension can be accorded in favour of the appellant-plaintiff.

Learned counsel for the appellant-plaintiff has not been able to point out any infirmity/perversity in the findings recorded by the courts below qua the facts or the evidence on record. In the absence of any perversity, the judgments of the courts below need no interference in the present regular second appeal so as to re-assess the evidence and on the basis of the facts and to arrive at a different conclusion than the one arrived at by the court.

No ground is made out for interference by this court in the present regular second appeal.

Dismissed.

**March 22, 2023**  
*kanchan*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

*Whether speaking/reasoned : Yes/No*

*Whether reportable : Yes/No*