

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

120

CWP-16860-2022

Date of Decision: 18.07.2023

Yogendra Kumar Saraswat

...Petitioner

Versus

Union of India and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rajesh Sehgal, Advocate for the petitioner

Mr. Anil Chawla, Senior Panel Counsel,
for Union of India-respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of Constitution of India is seeking quashing of communication dated 03.06.2022 (Annexure P-11) whereby claim of the petitioner for grant of disability pension has been rejected.

2. The brief facts necessary for adjudication of the present petition are that the petitioner joined the respondent department on 07.02.2002 in SHAPE-I medical category. The petitioner while posted at Guwahati was diagnosed with Major Depression with Anxiety Disorder (Post Traumatic). The petitioner from time to time was subjected to medical examination. Unit of the petitioner on 11.09.2018 (Annexure P-3) forwarded documents of the petitioner to Medical Invalidation Board at New Delhi. The Medical Invalidation Board on 02.04.2019 (Annexure

P-4) conducted medical examination of the petitioner. The petitioner was assessed with 80% disability. The petitioner was served notice dated 22.06.2019 (Annexure P-5) for invalidation from service. The petitioner agreed with the opinion of Medical Board and he was declared “medically invalidated out” from CRPF service w.e.f. 21.07.2019 under Rule 38 of Central Civil Services (Pension) Rules, 1972 (for short hereinafter referred to as the ‘**Pension Rules**’).

3. The claim of the petitioner is that petitioner suffered from disease on account of nature of service rendered by him. He was posted at different locations and on account of exposure to hostile work environment, high altitude and snow covered areas, the petitioner suffered from alleged disease which was directly attributable to work conditions.

4. In support of his claim, learned counsel for the petitioner relied upon Clause (eeee) of report dated 02.04.2019 (Annexure P-4) of Medical Board wherein it has been concluded that petitioner has suffered disease on account of stressful work condition and working at different environmental conditions.

In support of his contention that petitioner is entitled to disability pension apart from invalid pension, Mr. Rajesh Sehgal, learned counsel for the petitioner relied upon Rule 3-A read with Rule 9 (3)(a) of Central Civil Services (Extra Ordinary) Pension Rules, (for short hereinafter referred to as ‘**Extraordinary Pension Rules**’) which

provides that a person who has suffered disability which is attributable to government service would be entitled to disability pension apart from invalid pension.

5. Mr. Anil Chawla, learned counsel for Union of India-respondents, while expressing his inability to controvert the fact that in view of afore-stated Extraordinary Pension Rules, disability pension can be granted apart from invalid pension, submitted that petitioner has not suffered disability which was attributable to government service, thus, he was rightly denied benefit of disability pension.

On being confronted with Clause (eeee) of report of Medical Board, Mr. Chawla submits that report of Medical Board is incomplete, thus, authorities may be permitted to look into complete report before passing an order, as directed by this Court.

6. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

7. The conceded position emerging from record is that petitioner served C.R.P.F. for 17 years. He suffered from ailment in the year 2012, however, he continued to work till 2019. In the proceedings of Medical Board, it has been categorically noted that duration of illness is more than 6 years. The petitioner was found suffering from 80% disability. The Board has noticed that illness was on account of stressful work condition and working at different environmental conditions. The petitioner has been granted invalid pension and he has been denied

disability pension as respondent-authority was of the opinion that petitioner has not suffered illness which was attributable to service.

8. The petitioner indubitably worked with armed force for 17 years. As the petitioner worked for more than 10 years, thus, he was entitled to normal pension and on account of illness, he was made to retire and granted invalid pension.

9. The following questions arise for the consideration of this Court:-

- (i) Whether an employee can be granted disability pension besides invalid pension?
- (ii) Whether the petitioner has suffered illness which was attributable to service or was aggravated by service?

10. The answer to first question lies in Extraordinary Pension Rules. Rule 3-A deals with eligibility and Rule 9 provides for extension of disability pension besides invalid pension. The relevant extracts of Rule 3-A and Rule 9 read as below:-

“3-A. (1) (a) Disablement shall be accepted as due to Government service, provided that it is certified that it is due to wound, injury or disease which -

- (i) is attributable to Government service, or*
- (ii) existed before or arose during Government service and has been and remains aggravated thereby.*

(b) Death shall be accepted as due to Government service provided it is certified that it was due to or hastened by -

- (i) *a wound, injury or disease which was attributable to Government service, or*
 - (ii) *the aggravation by Government service of a wound, injury or disease which existed before or arose during Government service.*
- (2) *There shall be a causal connection between -*
- (a) *disablement and Government service ; and*
 - (b) *death and Government service,*
- for attributability or aggravation to be conceded. Guidelines in this regard are given in the Appendix, which shall be treated as part and parcel of these Rules.*

9. (1) *when disablement of a Government service is conceded as due to Government service in terms of Rule 3-A, he shall be awarded disability pension in terms of sub-rule (2) or (3) or lump sum compensation in terms of sub-rule (4) of this Rule in accordance with the precentage of disability (suffered by him) as certified by the Medical Authority concerned.*

(2) *If the Government servant is boarded out of Government service on account of his disablement, the quantum of disability pension for cent per cent disability shall be as specified in SCHEDULE II hereto annexed. The quantum of disability pension for lower percentage of disability shall be, "proportionately lower". (The minima and the maxima, given in SCHEDULE II, are applicable only for arriving at the monthly disability pension for cent per cent disability and are not applicable in respect of percentage of disability lower than cent per cent).*

(3) *If the Government service is boarded out of Government service on account of such disablement, and further if, the percentage of his permanent disability as certified by the Medical Authority is not less than 60 %, his monthly disability pension shall be related to the family pension admissible to the widow (in case he had died instead of being disabled) in the manner laid down in O.M. No. 23 (15)-E. V (A)-Pt. IV, dated the 20th January, 1978, as indicated below –*

- (a) *If the employee held a permanent pensionable post and is invalided/boarded out from service, as a result of disability attributable to service,*

after rendering ten years service, he shall be given, apart from the normal invalid pension under the CCS (Pension) Rules, 1972, the amount of disability pension as is admissible under the CCS (EOP) Rules, subject to the condition that the sum total of the invalid pension plus the disability pension shall not be less than the widow's (family) pension under the CCS (EOP) Rules; and

(b) If the employee eligible for disability pension under the CCS (EOP) Rules is invalided/ boarded out from service before putting in ten years service, he does not get any invalid pension but gets only service gratuity under the CCS (Pension) Rules, 1972. Apart from such gratuity, he shall be given such amount of disability pension as is admissible under the EOP Rules subject to the condition that the sum-total of the pension equivalent of such gratuity under the CCS (Pension) Rules, 1972, plus the disability pension as is admissible under the CCS (EOP) Rules, shall not be less than the widow's (family) pension under the CCS (EOP) Rules.”

Invalid pension is fundamentally a pension which is granted to every employee on account of services rendered by him. Invalid pension is granted if an employee has completed specified period of service whereas disability pension is granted, irrespective of length of service, however, on account of disability which is attributable to service or has been aggravated by service. The disability pension scheme is quite clear and in view of Rule 9, an employee can be granted disability pension apart from invalid pension subject to compliance of conditions mentioned in the Rules.

From the perusal of above quoted Rules, governing the issue in hand, it is quite evident that an employee may be granted disability pension besides invalid pension.

11. The petitioner is claiming that he had suffered illness which was directly attributable to his service whereas respondents in the impugned order as well as during the course of arguments have pleaded that petitioner did not suffer illness which was attributable to service. The petitioner had suffered 80% disability. It was Medical Board which has determined nature of disability as well as extent of disability. The foundation of declaring petitioner invalid was opinion of the Medical Board. The Medical Board in its report dated 02.04.2019 while answering one question has opined that disease was on account of stressful work conditions and working at different environmental conditions. Clause (eeee) of the said report is reproduced as below:-

“(eeee) State briefly the circumstances under which the Diseases was/were sustained/contracted or death occurred and the date thereof:-

Following stressful work conditions in force and working at different environmental conditions.”

From the perusal of above quoted clause, it is quite evident that Medical Board has opined that petitioner has suffered disease which was on account of stressful work condition and working at different environmental conditions.

12. In view of opinion of Medical Board, this Court finds substance in the contention of the petitioner that he has suffered illness

which is attributable to government service and he is entitled to disability pension apart from invalid pension. Accordingly, question No.2 is answered in favour of the petitioner.

In view of afore-stated facts and findings, the present petition is allowed. Impugned communication dated 03.06.2022 (Annexure P-11) is hereby quashed and respondents are directed to reconsider case of the petitioner for disability pension, apart from already granted invalid pension.

As pointed out by Mr. Chawla, the authorities would be free to look at complete Medical Report and thereafter form an opinion qua disability pension. The respondents shall consider all other claims of the petitioner before passing appropriate order which shall be passed within 2 months from today.

(JAGMOHAN BANSAL)
JUDGE

18.07.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>