

30.08.2024
Court No.13
Item No. 9
sp

CPAN 1052 of 2024
In
W.P.A. No. 3847 of 2024

Tanay Das
Versus
R.K. Tripathi, Commandant, 118 BN BSF & Anr.

Mr. Krishna Das Poddar,
Mr. Gopal Krishna Maiti.

...For the petitioner.

Mrs. Chandreyee Alam,
Mrs. Runu Mukherjee.

...For the alleged contemnors.

Mr. Rajesh Singh,
Mr. Aniruddha Singh.

..for the added contemnors.

1. The BSF authority has filed a report by way of affidavit.
2. Shri S.S. Dabas, DIG (Welfare), FHQ BSF, Shri R.K. Tripathi, Commandant, 118 BN BSF are present virtually in Court and Shri Saurabh Jaiswal, Senior Vice President and Head Legal Claims, TATA AIG General Insurance Company is also present in Court.
3. The report indicates that the petitioner has been retired on unfitness for service and pension papers were presented for his signature.
4. Counsel for the petitioner submits that in terms of the applicable rules of the Central Government which the BSF is bound by his client is entitled to disability pension in accordance with the CCS (Extraordinary) Pension Rules already mentioned in the order dated 26th July, 2024.

5. Mr. Rajesh Singh, learned counsel for the TATA AIG submits that the policy covers injuries and accidents sustained in course of discharge of duties and does not cover pre-existing diseases. The petitioner admittedly had developed his ailments which led to his blindness since the year 2020.

6. This Court notes that the alleged contemnors have in compliance with this Court's order taken a decision on the petitioner's case. Any challenge to the decision of either the TATA AIG or the BSF, is now required to be raised in an independent proceeding.

7. The observations made in the orders passed in the contempt application, shall not prevent the petitioner from raising his claim as indicated above in any independent proceeding either the BSF or the TATA AIG.

8. With the aforesaid observations, CPAN 1052 of 2024 shall stand disposed of.

9. Rule, if any, shall stand discharged.

10. The personal presence of the alleged contemnors is dispensed with.

11. It is made clear that the petitioner may accept the offer of retirement on the ground of medical unfitness, without prejudice to his rights and contentions to challenge the same in any independent proceeding as already reserved to him above. Let any pending salary and dues of the petitioner be released to him

forthwith.

12. There shall be no order as to costs.

13. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities

(Rajasekhar Mantha, J.)