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W.P.No.13515 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.13515 of 2024

Ex-Spr Gurram Satyaraju

... Petitioner

Vs.

- 1.Union of India represented by its
Secretary to Government of India,
Ministry of Defence, South Block,
New Delhi – 110 011.
- 2.Chief of the Army Staff,
Army Headquarters (AHQ), DHQPO,
New Delhi – 110 011.
- 3.Principal Controller of Defence Accounts,
Office of PCDA (Pensions),
Droupati Ghat, Allahabad, Uttar Pradesh – 211 014.
- 4.The Officer i/c, Records, Madras Engineering Group,
Sivanchetty Garden Post Office, Post Box No.4201,
Bangalore – 560 042.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the passing of the order dated 15.09.2017 in O.A.No.135 of 2017 with M.A.No.168 of 2017 on the file of the Armed Forces Tribunal Regional Bench, Chennai, and quash the same and consequently, direct the respondents to grant the disability pension with all attendant benefits or Service element or pension/invalid pension with all attendant benefits from the date of invalidation.

For Petitioner : Mr.M.Selvaraj

For Respondents : Mr.V.T.Balaji
Senior Panel Counsel

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed challenging the order, dated 15.09.2017, in O.A.No.135 of 2017 with M.A.No.168 of 2017 on the file of the Armed Forces Tribunal, Regional Bench, Chennai, and consequently, to direct the respondents to grant disability pension with all attendant benefits or invalid



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pension from the date of invalidation of the petitioner.

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2. Brief facts that are necessary for the disposal of this writ petition are as follows :

The petitioner was enrolled on 11.05.1971. The petitioner was discharged from service with effect from 10.02.1973 under Rule 13(3) Item IV of Army Rules, 1954, on being found medically unfit for further service. The petitioner was diagnosed with “Generalised Tonic Clonic Seizure”. It is pertinent to mention that the case of the petitioner before the Armed Forces Tribunal is that he joined in service with a sound physical and mental condition and that due to an accident while the petitioner was on security patrolling duty, he got severe internal injury at brain. It is his further case that he fell from bridge due to giddiness, following the accident and he was taken to Air Force Command Hospital, Bangalore. It is his case that he was diagnosed for recurrent episodes of GTCS (Generalised Tonic Clonic Seizure). Since the said sudden sickness was due to fall from the bridge while the petitioner was on patrolling duty, the petitioner claims that his medical invalidation was attributable to his military service and therefore,



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he is entitled to disability pension as per Army Rules. In the alternative, the petitioner claims invalid pension, even assuming that he is not eligible for disability pension.

3. Even though the petitioner claims that he had fallen from a bridge which led to his physical disability, the petitioner has not produced any document to support his disability claim. The petitioner was found medically unfit for further service after recording the nature of disqualification. Though the petitioner was discharged from service in 1973, the petitioner filed an application in O.A.No.135 of 2017, nearly 44 years after the petitioner was discharged from service on 10.02.1973. The respondent's action invalidating the petitioner on medical grounds was in 1973 and the petitioner had not challenged the order as such for more than 44 years for no valid reason. Such a long delay has seriously prejudiced the respondents, as they are not in a position to verify from records as to the genuineness of the claim of the petitioner on facts. The respondents have also informed the Armed Forces Tribunal, Regional Branch, Chennai, that due to lapse of 44 years, the records pertaining to the nature of treatment



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taken by the petitioner are destroyed. It is also recorded that the petitioner being a non-pensioner, his sheet roll and service documents had also been destroyed. For the said reason, the petition filed by petitioner in M.A.No.168 of 2017 to condone the delay of 15869 days was also dismissed for want of merits along with O.A.No.135 of 2017.

4.This Court finds no explanation from the petitioner for the inordinate delay of more than 44 years. It is in the said circumstances, entertaining a original application after a lapse of 44 years based on disputed facts will be against settled principles. Therefore, this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

(S.S.S.R., J.) (N.S., J.)
03.06.2024

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Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No



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To

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Union of India,
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