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W.P.No.24958 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.24958 of 2023

V.Velayutham

... Petitioner

Vs.

1.Union of India,
Represented by the Secretary,
Ministry of Defence,
Room No.227 B Wing,
Sena bhawan,
New Delhi – 110 011.

2.The Chief Controller of Defence Accounts (Pensions),
CDA, Draupadi Ghat,
Allahabad – 211 014.

3.The Senior Records Officer,
OIC EME Records,
DIS, ACI & Pension Section,
Secunderabad – 500 021.

... Respondents

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 of the



W.P.No.24958 of 2023

Armed Forces Tribunal in O.A.No.01 of 2009 on the file of the Armed Forces Tribunal, confirming the order passed by the 1st respondent in Letter No.14592018/DP-3 pen dated 30.07.2007 by rejecting the petitioner's Disability Pension Claim, which confirming the order passed by the First Appellate Authority in Letter No.B/40502/1347/03/AG/PS-4 (Imp-II) dated 13.09.2005 which confirm the Rejection of Disability Pension Claim Letter No.14592018 dated 01.07.2002 by the Record Officer for OIC EME records and quash the same and consequently, to issue direction to the respondents to pay Disability Pension to the petitioner from the date of invalidation from service, i.e., 30.09.2001 together with 12% interest.

For Petitioner : Mr.P.Amritraj
For R1 to R3 : Mr.K.Ramanamoorthy
Central Government Counsel

ORDER

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

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the Armed Forces Tribunal, Regional Bench, Chennai, in O.A.No.1 of 2009, dated 18.03.2010, confirming the order passed by the 1st respondent dated 30.07.2007,



W.P.No.24958 of 2023

rejecting the petitioner's disability pension claim in tune with the order passed by the First Appellate Authority dated 30.09.2005.

2.The petitioner was appointed in EME Corps in the Army on 05.02.1986. It is the case of the petitioner that the petitioner, while working in the Station Work Shop, Secunderabad, had developed disease in the right kidney in the year 1996. Due to kidney stone, the petitioner was discharged on medical grounds by the respondent by proceedings dated 29.04.2001. Since the disease, namely kidney stone, was neither attributed or aggravated by military service, disability pension claim made by the petitioner was rejected from the inception. The claim of the petitioner was negated by every authority. Therefore, the petitioner filed an application in O.A.No.1 of 2009 before the Armed Forces Tribunal, Regional Bench, Chennai. Though the petitioner raised several grounds, the Armed Forces Tribunal, considering all the documents and materials placed before the forum, dismissed the Original Application. Since no document or medical opinion was obtained by the petitioner to show that the kidney stone was due to adverse service conditions or it was aggravated by the petitioner's service in



W.P.No.24958 of 2023

army, the Tribunal dismissed the claim by order dated 18.03.2010.

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3.The petitioner has not challenged the order of the Tribunal for about 14 years. However, the petitioner appears to have filed O.A.No.18 of 2021 for identical relief, suppressing the earlier order passed by the Tribunal in 2010. After recording the facts relating to the disposal of O.A.No.1 of 2009 by order dated 18.03.2010 and the nature of order, the Tribunal for the second time, passed an order on 26.08.2022 rejecting the claim on the ground that the second application is not maintainable in view of the dismissal of the earlier order. Now, the present writ petition is filed by the petitioner challenging the earlier order in O.A.No.1 of 2009 dated 18.03.2010. The petitioner, therefore, has filed the present writ petition with a delay of 14 years without an explanation. The failure to offer any explanation is obvious that the petitioner had filed second application in 2021 suppressing the rejection of his claim earlier in O.A.No.1 of 2009 by order dated 18.03.2010. Therefore, the petitioner cannot now take advantage of the pendency of the second application. Even the second application was filed only in 2021, nearly after 11 years after the earlier



W.P.No.24958 of 2023

order. The conduct and attitude of the petitioner would prompt us not to exercise any discretion or sympathy. The petitioner does not deserve any indulgence from this Court.

4. Therefore, this writ petition is dismissed on the ground of delay and laches. No costs.

(S.S.S.R., J.) (N.S., J.)
13.06.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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Union of India,
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W.P.No.24958 of 2023

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