

2024:PHHC:166971-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-6218-2020
Reserved on: 28.11.2024
Pronounced on: 13.12.2024

Ex. GNR Teja SinghPetitioner

Versus

Union of India and OthersRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Malhar Singh Dhami, Advocate
for the petitioner.

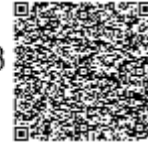
Ms. Anita Balyan, Sr. Panel Counsel
for respondents-UOI.

SURESHWAR THAKUR, J.

CM-10644-2022

1. During the pendency of the instant writ petition, the demise of the petitioner has occurred on 14.05.2021. It has been averred in paragraph No. 3 of the application that the deceased petitioner is survived by his LRs, as, enumerated therein.
2. Since for an adjudication of the instant writ petition, the substitution of the deceased by his LRs is imperative. Therefore, after allowing the asked for substitution, the instant application is allowed.
3. The amended memo of parties, as appended with the application is taken on record.

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4. No notice is required to be served upon the newly added LRs-petitioners, as they stand represented through their counsel Mr. Malhar Singh Dhami, Advocate.

Main case

5. Through the instant writ petition, the petitioner herein prays for setting aside of the order dated 13.03.2019 (Annexure P-5) as passed by the learned Armed Forces Tribunal, Chandigarh, whereby, the claim of the petitioner for grant of disability pension became declined.

Factual Background

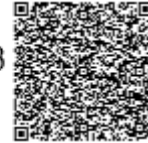
6. The petitioner was enrolled in the Indian Army on 30.07.1971 in a fit state of health. During the course of service, he incurred disability of NEUROSIS and was accordingly invalided out from service w.e.f. 31.03.1979. At the time of invalidation, his disability was assessed @ 20 % by the Release Medical Board.

7. The disability element claim of the respondent was rejected by the Competent Authority, thus on the ground that the supra disability was neither attributable to nor being aggravated by rendition of military service.

8. The first appeal submitted by the petitioner was rejected vide order dated 11.11.1980 and the second appeal was not considered, being time barred vide order dated 29.06.2005.

9. Feeling aggrieved, the petitioner filed O.A., before the Armed Forces Tribunal concerned, whereby he cast a challenge to the

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afore said rejection order. The said O.A. was dismissed vide order dated 13.03.2019. The operative part of the said order is extracted hereinafter.

“On the other hand, the respondents have taken a stand that the disability has been declared neither attributable to nor aggravated by Military Service and also not related to military service. Further, learned counsel for the respondent's has pointed out that the disability of the applicant was not due to service conditions of military service rather the Psychiatric, who examined the applicant, in the summary of the case has stated that the applicant was in love with a girl for the last two years and parents were against their getting married. The girl with whom he loves, committed suicide, on account of failure in love. Therefore, the applicant experiencing the above symptoms ever since. So, it is a case of Neurosis manifesting in the form of recurrent nightmares of a girl with whom he was in love committed suicide. The applicant is immature and his response to treatment has been poor.

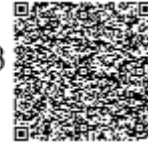
After considering the submissions made by the learned counsel for the parties and going through the report of the Classified Specialist in Psychiatry, the applicant is not entitled to disability pension and the opinion of the medical board, cannot be disregarded.....”

10. Feeling dis-satisfied from the afore dis-affirmative order, the petitioner has filed the instant writ petition before this Court.

Inferences of this Court.

11. The primary reason which prevailed upon the learned Tribunal to deny disability pension to the petitioner, became embedded upon the factum that the manifestation of *neurosis* vis-a-vis the present soldier, was a sequel of his being a jilted lover. The said denial became hinged upon the summary of treatment prepared by the psychiatrist,

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who was counselling the present petitioner. The summary of treatment carries an admission of the present soldier, that he was in love with a girl for the last two years, and, thus was a jilted lover, given his parents resisting his marriage with his beloved. Moreover, there is also an admission therein, that since his beloved believed, that on the supra counts, the present soldier was led to spurn her offer to marry him, thereupon, she committed suicide, whereafter, the soldier admitted, that he thereby developed neurosis.

12. Be that as it may, the supra admissions, could be well taken into account for making the apposite denial, besides the said apposite denial would also coax this Court to uphold the same, but only when the signatures of the soldier also existed over the summary of treatment, thus carrying therein the supra purported admissions. However, the signatures of the present soldier, do not evidently occur, over the supra summary of treatment, rather delineating therein the supra admission. Resultantly thereby, besides also when the said summary of treatment, was made by the psychiatrist who was working at the military hospital concerned, thereupon, it is to be concluded that, *prima facie*, the supra summary of treatment, not only became drawn capriciously, but was also made at the behest of the Army Authorities, whereby, thereto no credence can be assigned.

13. Therefore, reiteratedly since the summary of treatment relied upon by the Tribunal, for denying the disability pension to the petitioner, is evidently un-signed by the petitioner. Resultantly, it

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appears that the supra therein recitals were, *prima facie*, conjecturally drawn, wherebys, the supra therein made recitals, but reiteratedly cannot countervail the claim of the present soldier, that the entailment of neurosis upon him, rather was not on account of rendition of military service nor became aggravated by rendition of military service nor the respondents can deny disability pension merely on account of the said un-signed recitals.

Final Order of this Court.

14. In aftermath, this Court finds merit in the writ petition and with observation(s) above, the same is allowed.

15. The impugned order (Annexure P-5) is quashed and set aside but with a direction to the respondents concerned, to process the disability pension case of the petitioner besides grant him the benefits of roundings off as pronounced in a judgment rendered by the Hon'ble Apex Court in case titled as '***Union of India Vs. Ram Avtar***', reported in ***2014 SCC Online 1761***.

16. The above exercise may be done within a period of three months from today.

17. Since there is delay on the part of the present petitioner in raising a claim against the rejection of his claim for disability pension claim, therefore, in terms of settled position of law, as pronounced in the verdicts rendered by the Apex Court in ***Civil Appeal No. 5151-5152 of 2008 (Arising out of SLP (C) Nos. 3820-3821 of 2008 titled as Union of India and Others Vs. Tarsem Singh*** and in ***Civil Appeal No.***

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274 of 2007 (Arising out of SLP (Civil) No. 881 of 2006) titled as Shiv Dass Vs. Union of India and Others, decided on 18.01.2007, the arrears shall be restricted for a period of three years from the date of filing of the instant writ petition.

18. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

13.12.2024
kavneet singh

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No