

2024:PHHC:158441-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-29179-2024
Reserved on : 18.11.2024
Pronounced on : 29.11.2024

MAJ GEN MS CHANDHOKE (RETD)Petitioner

Versus

UNION OF INDIA AND OTHERSRespondents

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

Argued by: Mr. Maj Gen M.S. Chandhoke (Retd.)
Petitioner-in-person.

Mr. Rohit Verma, Advocate
for the respondent-UI.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein prays for the setting aside of the order dated 27.08.2024 (Annexure P-1) as passed by the learned Armed Forces Tribunal, Chandigarh Regional Bench, at Chandimandir, whereby the claim of the petitioner for grant of disability pension became declined.

Factual Background

2. The petitioner was enrolled in the Indian Army on 11.12.1962 in a fit state of health and was retired from service on 31.12.1996 in Shape-I on attaining the age of superannuation after rendering more than 34 years of qualifying service.

3. It was averred on behalf of the petitioner that at the time of

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HYPERTENSION and his medical category was required to be downgraded and made permanent. However, just to deny him disability pension, he was wrongly retired in SHAPE-I category.

4. Feeling aggrieved, the petitioner filed O.A. before the Tribunal concerned, for grant of disability pension w.e.f. 01.01.1997 @ 40 % alongwith the benefit of rounding off to 50 %. The said O.A. became dismissed vide order dated 27.08.2024. The operative part of the said order is extracted hereinafter.

“6. Learned counsel for the applicant has argued that of Post-Retirement Medical Board of the applicant be conducted at this stage, but we are not in agreement with the learned counsel for the applicant for the reason that there is no sufficient reason to condone the delay. In this regard reliance is placed on a judgment rendered by the Hon'ble Supreme Court on 19.07.2022 in Civil Appeal No. 6536 of 2021 titled Union of India & Ors. V. Ex Sep. R. Munusamy wherein it has been observed that the claim of such like applicant should not have been entertained and that too 20 years after discharge.”

5. Feeling dis-satisfied from the afore order, the petitioner herein has filed thereagainst the instant writ petition.

Inferences of this Court.

6. Ex-facie, the present petitioner filed the instant O.A. in the year 2023, wherebys, he claims that his medical category was impermissibly declared to fall in Shape I category, which further resulted in his being untenably denied the disability pension. Moreover, the petitioner has also claimed the benefit of roundings off in terms of

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the verdict pronounced by the Apex Court in case titled as '*Union of India Vs. Ram Avtar*', reported in *2014 SCC Online 1761*.

7. The present petitioner filed the O.A. (supra) after an elapse of almost 27 years taking place, since his superannuating from the Army. The said delay has ex-facie adverse consequences vis-a-vis the writ claims. The reason for so stating ensues from :

a) Their being an imperative requirement for the holding of a re-survey medical board, but in the closest time to the declaration made by the Release Medical Board wherebys, he purportedly became erroneously placed in Shape I category, thus resulting in his becoming purportedly untenably denied the disability pension.

b) Un-controvertedly, the said re-survey medical board was not conducted in closest proximity or in contemproniety to the supra declaration made by the Re-survey medical board. The supra omission of the present petitioner to promptly seek the constitution of a re-survey medical board, thus for ensuring that his being placed in Shape I category, but was erroneous, rather naturally cannot at this belated stage, thus empower him to claim that the supra declaration was erroneously made.

c) The imperative reason for so declaring, is but naturally sparked from the fact, that since with the passage of time there may be further improvements or deteriorations in the health of the present petitioner, wherebys, the imperative inter-se nexus inter-se his

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serving in the Army and the onsetting of the disease upon him, but obviously would become snapped. Therefore, the delayed espousal of the petitioner, that the re-constituted Medical Board be ordered to become convened, at this belated stage, thus for its making a re-survey of his health, especially, when immense time has elapsed, since his superannuating from service, naturally makes the said submission to be a mis-founded submission and is required to be rejected, as aptly done by the Tribunal concerned, while relying upon the judgment rendered by the Apex Court in case titled as **Union of India and Ors. Vs. Ex. Sep. R. Munusamy**, to which **Civil Appeal No. 6536 of 2021** became assigned.

Final Order of this Court.

8. In aftermath, this Court finds no merit in the writ petition and with the observation(s) aforesaid, the same is dismissed.
9. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

29.11.2024
kavneet singh

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