

2024:PHHC:144561-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-27278-2023 (O & M)
Reserved on: 01.10.2024
Pronounced on: 05.11.2024

Union of India and Ors.Petitioners

Versus

No. 2477934X Ex. Lnk Balwinder Singh and Anr.Respondents

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

Argued by: Ms. Anita Balyan, Advocate
for the petitioners.

Mr. Navdeep Singh, Advocate with
Ms. Roopan Atwal, Advocate
for respondent No. 1.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein-
Union of India, prays for the setting aside of the order dated 13.07.2021
(Annexure P-1), as passed by the learned Armed Forces Tribunal,
Regional Bench Chandigarh, at Chandimandir (hereinafter for short
called as 'the Tribunal'), whereby the claim of respondent No. 1 for the
grant of disability pension was allowed.

Factual Background

2. Respondent No. 1 was enrolled in the Army on 29.12.1984
and was discharged from service on 28.02.1993. At the time of his
discharge, the respondent was brought before the Release Medical

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Board being placed in low medical category CEE (P) on account of disability “PEMPHIGUS VULGARIS (694)”, who opined qua the disability of the respondent being neither attributable to nor being aggravated by military service, rather the same being immunological in nature and not being connected with service. However, his disability was assessed @ 20 % for two years.

3. The Competent Authority vide order dated 17.04.1995, thus rejected the claim for grant of disability pension to the respondent. Respondent No. 1 did not prefer any appeal against the said rejection order. However, respondent No. 1 filed application dated 07.12.2019 under the RTI Act for providing him certain documents, which were provided to him by the petitioner-Department.

4. Thereafter, respondent No. 1 filed O.A. No. 627 of 2020, before the Tribunal concerned praying for grant of disability pension. The said O.A., became disposed of vide order dated 13.07.2021. The operative part of the said order is extracted hereinafter.

“In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is still found suffering from the same disability, his case shall be processed in view of the law laid down in Dharamvir Singh's and Rajbir Singh's case (supra) and in that case the arrears shall be restricted to three years prior to the date of filing of this Original Application i.e. 11.03.2020.”

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5. In terms of the afore order, as passed by the Tribunal concerned, the authorities conducted the re-survey medical board of the respondent wherefrom, it became confirmed that the respondent was still suffering from the disability which was assessed @ 20 % for life besides the disability (supra) was stated to be '**referable to service**'.

6. Further, it has been averred that since no monetary benefits in terms of the order (supra) were released to the respondent, rather his claim for grant of disability pension was rejected through the passing of a speaking order. Resultantly, respondent No. 1 filed contempt application No. 11 of 2023 before the Tribunal concerned.

7. Feeling aggrieved from the aforesaid order as passed upon the O.A. (supra), by the learned Armed Forces Tribunal concerned, as well as by the filing of the contempt petition, whereons notice was issued to the respondents therein, thereby, the petitioner-Union of India has filed thereagainst the instant writ petition before this Court.

Inferences of this Court.

8. In the operative part of the verdict in O.A. No. 627 of 2020, on 13.07.2021, as passed by the Tribunal concerned, operative part whereof becomes extracted hereinabove, thus relief in terms of the law laid down in case titled as '**Dharamvir Singh Vs. UOI and Others**, reported in (2013) 7 SCC 316, became granted to respondent No. 1. Additionally, the verdict (supra), as passed by the Tribunal concerned, remained un-assailed at the instance of the petitioner-Union

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of India, therebys, the said verdict acquires binding and conclusive effect.

9. However, subsequent to the making of the said binding and conclusive verdict, yet the respondents-Department failed to comply with the directions (supra), as made in the verdict (supra). Resultantly, respondent No. 1 was led to file a contempt Application before the learned Tribunal concerned and notice was issued in the said Contempt Application to the Department concerned. The above issuance of notice in the Contempt Application has led the petitioner-Union of India to assail the verdict drawn on 13.07.2021, upon O.A. No. 627 of 2020, by the Tribunal concerned.

10. Since, the effect of failure of a challenge being made by the present petitioner-Union of India to the verdict (supra) rendered in O.A. No. 627 of 2020, by the Tribunal, thus has led this Court to form an opinion that therebys it acquires binding and conclusive effect. Resultantly the said binding and conclusive verdict was required to be completely complied with, whereas, its remaining un-complied with. Therefore, the present respondent no. 1 was led to institute a contempt application whereons notice became issued to the respondents-petitioners herein.

11. In sequel, though the present petitioner-Union of India, post the acquiring of finality and conclusivity, vis-a-vis, the supra passed verdict, but naturally was required to enforce the said verdict.

Contrarily, the present petitioner-Union of India, to overcome the

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binding and conclusive effect of the verdict (supra), has proceeded to yet recourse an ill remedy to belatedly cast a challenge thereto, besides reiteratedly only post the filing of a contempt application by the present respondent, which led to the issuance of a notice by the Tribunal to the Department concerned. Consequently, the said belated challenge to the otherwise binding and conclusive verdict (supra) passed by the Tribunal, thus is a wholly mis-constituted challenge theretos. Therefore, the said challenge but cannot be accepted by this Court. Contrarily, the order passed (supra) is required to be enforced, if not already enforced.

12. In aftermath, after upholding the verdict passed by the Tribunal, upon, O.A. No. 627 of 2020, thus this Court proceeds to dismiss the instant writ petition, but with a direction upon the Tribunal concerned, to enforce the directions (supra), as passed in the verdict (supra) but within a period of two months from today.

13. Disposed of alongwith all pending application(s), if any.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

05.11.2024
kavneet singh

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