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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 14598/2022**
FARUQE KHAN DEAD THROUGH MOJMA KHATUN

.....Petitioner

Through: Mr. Nazimuddin Ahmed, Ms Archana Malik, Mr. A.S. Jamal and Mr. Rashid Azam, Advs.

versus

DGP CRPF AND ANR.

.....Respondents

Through: Mr. Farman Ali, SPC with Ms. Usha Jamnal and Mr. Krishan Kumar, Advs.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER
12.07.2024

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1. The petitioner, who superannuated from the CRPF on 31.01.2016 after serving for 35 years, has approached this Court seeking directions to the respondents to extend the benefits of 2nd ACP to him w.e.f. 15.06.2005, which benefits were extended to him w.e.f. 20.02.2006.
2. Learned counsel for the petitioner submits that the petitioner completed 24 years of service on 15.06.2005 and was therefore eligible for grant of 2nd ACP with effect from the said date. He was however not extended the said benefit at that stage as he had in his earlier annual medical examination, conducted on 02.11.2004 been declared as temporarily unfit on account of being overweight. As per



the laid down guidelines he was entitled to be examined by a Review Medical Board after 24 weeks i.e., in April, 2005, which Medical Board could not be conducted as he was deployed for election duty in Bihar. Consequently, the petitioner's medical examination was conducted only on 20.02.2006 after he had returned from election duty. In this medical examination, the petitioner was found to be fit and was placed in Medical Category Shape-I and was accordingly granted benefits of the 2nd ACP w.e.f., 20.02.2006. He contends that since the petitioner's medical examination was delayed only on account of his deployment to Bihar, due to service exigencies, he could not be penalized for the delay in holding of his medical examination and, therefore, ought to be granted the benefits of 2nd ACP from 15.06.2005 itself, when he had completed 24 years of service.

3. Per contra, learned counsel for the respondents opposes the petition and submits that the petitioner having approached this Court after more than 16 years from the date on which he was granted the benefits of 2nd ACP, the present petition is liable to be dismissed on the ground of delay and laches, itself. Furthermore, taking into account the delay on the part of the petitioner in approaching this Court, his service record which could have shown whether there was any delay in holding his medical board as also the reasons for the same, cannot be ascertained at this stage as major portion of his service records already stands weeded out in 2021 i.e., five years after he was superannuated. He further submits that the petitioner never raised any grievance in this regard while he was in service and even a copy of the representation which he claims to have submitted on



15.04.2015 is now not traceable in the record. He, therefore, prays that the writ petition be dismissed.

4. Having considered the submissions of learned counsel for the parties and perused the record, we find that except for the petitioner's bald statement that he had submitted a representation in April 2015, which representation is now not available with the respondents, no document has been placed on record to show that the petitioner had ever raised any grievance regarding the alleged delay in conduct of his Review Medical Board. The petitioner has furnished absolutely no explanation as to why he did not approach the respondents at the relevant point of time in 2005-06 with a prayer that his Review Medical Board be held at the earliest. There is also no explanation for the delay in approaching this Court; as noted hereinabove, the petitioner superannuated on 31.12.2016 and has approached this Court in September, 2022.
5. In these circumstances, when the respondents have categorically stated that the service records of the petitioner stand weeded out, this Court cannot accept the petitioner's bald plea that he was unable to appear before the Review Medical Board in April, 2005 because of service exigencies. There is every possibility that the petitioner who had been declared medically unfit on 02.11.2004 due to obesity, may have shed the excessive weight only by 20.02.2006, when he was examined by the Review Medical Board and found to be in Shape-I. The petitioner having approached this Court after an inordinate delay, he himself was only to blame for the non availability of his service record at this belated stage.



6. For the aforesaid reasons, we find no merit in the petition, which is accordingly, dismissed.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 12, 2024
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