



2024:DHC:8700-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 11th November, 2024***

+ W.P.(C) 15632/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Ms. Archana Gaur, SPC with
Ms. Ridhima Gaur and Ms.
Ring Baliyan and Major Anish
Murlidhar.

versus

EX SPR (MACP NK) P ARUN KUMAR

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 65591/2024**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. This petition has been filed challenging the Order dated 22.11.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (in short, 'AFT') in Original Application (in short "OA") No. 1158/2021 titled ***Ex SPR (MACP Nk) P Arun Kumar v. Union of India and Ors.***, allowing the Original Application filed by the respondent herein and directing as under:-

"29. In the circumstances, the OA 1158/2021 is allowed and the applicant is held entitled to the grant of the disability element of pension qua the disability of the applicant i.e. "MODERATE DEPRESSIVE EPISODE (F32.1)" assessed at 20% for life, which is directed to be broad banded to 50% for life in terms of the verdict of the



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*Hon'ble Supreme Court in **Union of India vs Ram Avtar** decided on 10.12.2014 in Civil Appeal no. 418 of 2012 with effect from the date of his discharge and the respondents are directed to issue the corrigendum PPO with directions to the respondents to pay the arrears within a period of three months from the date of receipt of a copy of this order, failing which, the respondents would be liable to pay interest @6% p.a. on the arrears due from the date of this order."*

4. The respondent had filed the above petition stating therein that he had been enrolled in the Indian Army (Madras Engineer Group) on 16.04.2004. While serving with the 14 Engineer Regiment located at Jodhpur, Rajasthan, which was a 'peace' location, the respondent got admitted to Military Hospital, Jodhpur on 07.07.2008, and was diagnosed as suffering from a 'Moderate Depressive Episode (F 32.1)'. Subsequently, he was placed in a low medical category S3 (T-24) with effect from 18.08.2008 for six months. He was then placed in the medical category S2 (Permanent) with effect from 21.06.2018 by the Military Hospital, Secunderabad, and continued to be in the said medical category till his discharge from service on 31.05.2020. Though the respondent was granted service pension, he was denied the disability element of pension as his disability was opined to be not attributable to or aggravated by military service. The respondent did not file an appeal against the said findings though submitted a representation. He, thereafter, filed the abovementioned OA before the learned AFT, which has been allowed by the Impugned Order.

5. The learned counsel for the petitioners submits that the learned AFT has erred in ignoring the findings of the Medical Board, which had opined that the disability suffered by the respondent was neither



attributable to nor aggravated by Military Service. She submits that, therefore, the respondent was not entitled to the disability element of pension as provided in the amended Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008. She submits that the learned AFT has also erred in placing reliance upon the Judgment of the Supreme Court in ***Dharamvir Singh v. Union of India & Ors.***, (2013) 7 SCC 316.

6. We have considered the submissions made by the learned counsel for the petitioners.

7. In the present case, apart from relying upon the Judgment of the Supreme Court in ***Dharamvir Singh (supra)***, the learned AFT has taken note of the posting profile of the respondent, which is reproduced hereunder:-

<i>Ser No</i>	<i>From</i>	<i>To</i>	<i>Unit</i>	<i>Place/Ship</i>	<i>P / F (HAA / Ops / Sea Service) / Mod Fd</i>
(a)	16 APR 2004	15 SEP 2006	TRG BN III. MEG & Centre	BANGALORE	PEACE
(b)	16 SEP 2006	31 AUG 2007	14 ENGR REGT	LEH (J&K)	FIELD
(c)	01 SEP 2007	08 SEP 2010	14 ENGR REGT	JODHPUR	PEACE
(d)	09 SEP 2010	30 JUN 2013	TRG BN III. MEG & Centre	BANGALORE	PEACE
(e)	01 JUL 2013	19 JUL 2014	14 ENG REGT	ASSAM	SEMI FIELD
(f)	20 JUL 2014	09 NOV 2014	38 ASLT ENGR REGT	PATIALA	PEACE
(g)	10 NOV 2014	11 SEP 2015	38 ASLT ENGR REGT	CHANDIMANDIR CANTT	PEACE
(h)	12 SEP	14 AUG	14 ENGR	SECUNDERABAD	PEACE



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	2015	2018	REGT		
(i)	15 AUG 2018	31 AUG 2018	14 ENGR REGT	SRINAGAR	FIELD
(j)	01 SEP 2018	TILL DATE	16 ENGR BR REGT (PMS)	MEERUT CANTT	PEACE

8. The learned AFT has also noted that the onset of the disability of the respondent was noticed on 11.04.2008, when he was posted at a 'peace' location, however, it was immediately after his deployment at Leh (Jammu & Kashmir), which is a field area, from 16.09.2006 to 31.08.2007. The learned AFT also relied upon paragraph 54 of the GMO (Military Pension), 2008 to observe that the aggravation of the disability of the respondent in the instant case, would have to be held due to military service.

9. We are of the opinion that the learned AFT has, therefore, taken all relevant considerations into account while adjudicating the abovementioned OA filed by the respondent and no infirmity can be found in its conclusion. We do not have to be reminded that we are not sitting as an Appellate Court against the orders passed by the learned AFT. There is no legal infirmity shown to us in the Impugned Order.

10. We, therefore, do not find any merit in the present petition. The same, along with the pending application, is accordingly dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 11, 2024/ss/sk/SJ

[Click here to check corrigendum, if any](#)

Signature Not Verified

Digitally Signed

By: NEELAM

Signing Date: 14.11.2024

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