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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 16249/2024 & CM APPL. 68411/2024, CM APPL.

68612/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Farman Ali, Ms. Usha Jamnal,
Adv. with Major Anish Murlidhar, from Army.

versus

BRIG RAJEEV SHARMA

.....Respondent

Through: Mr. S.N. Dalal and Ms. Manisha,
Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SHALINDER KAUR

ORDER

28.11.2024

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1. By way of the present petition under Articles 226 & 227 of the Constitution of India, the petitioners seek to assail the orders dated 28.05.2024 and 04.10.2024 passed by the learned Tribunal in Original Application (OA) No. 981/2024 filed by the respondent.
2. Learned counsel for the petitioners submits that the only grievance of the petitioners is that the learned Tribunal, without even granting adequate opportunity to the petitioners to show that in terms of the applicable Rules, Regulations and Instructions, the respondent was not entitled to raise a claim for grant of disability pension after more than 7 years of being released from service, has in para 5 of the impugned order dated 04.10.2024 held that the respondent was entitled to be examined by RSMB/RAMB/PDMB. He, therefore, prays that the findings as recorded by the learned Tribunal in para 5 of its order dated 04.10.2024 be set aside.



3. Issue notice. Mr. Dalal accepts notice on behalf of the respondent and fairly submits that taking into account that the O.A. of the respondent is yet to be finally adjudicated, he has no objection if this Court were to set aside the findings recorded in para 5 of the order dated 04.10.2024 and clarify that the observations made therein would be treated only as *prima facie* and will not bind the parties.
4. Having perused Rule 8 of the Entitlement Rules for Causality Pensionary Awards to Armed Forces Personnel, 2008 and taking into account the stand of the respondent, we dispose of the writ petition by directing that findings given in para 5 of the order dated 04.10.2024 will be treated as only *prima facie*. Consequently, the learned Tribunal will, after giving due opportunity to both sides and considering the effect of the applicable rules, regulations and instructions arrive at a final decision as to whether the respondent was entitled to claim disability pension after being examined by a RSMB/RAMB/PDMB. We further direct that till a final decision regarding the respondent's eligibility for raising a claim for disability pension is taken by the learned Tribunal, the findings of the RSMB/RAMB/PDMB, which will now be conducted by the petitioners within a period of two weeks, will be kept in a sealed cover with the learned Tribunal.
5. The writ petition is disposed of in the aforesaid terms.

REKHA PALLI, J

NOVEMBER 28, 2024/acm

SHALINDER KAUR, J