



2024:DHC:9311-DB



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

Date of decision: 27.11.2024

+ W.P.(C) 16405/2024

UNION OF INDIA THROUGH ITS SECRETARY & ORS.

.....Petitioners

Through: Mr. Shoumendu Mukherji, SPC
with Ms. Megha Sharma, Ms.
Arya Jha & Mr. Aniruddha
Ghosh, Advs.

versus

NO 200397Z EX MCEAR-II SATYAVIR SINGH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 69113/2024

1. Allowed, subject to just exceptions.

W.P.(C) 16405/2024 & CM APPL. 69112/2024

2. This petition has been filed by the petitioners challenging the Order dated 17.03.2020 passed by the learned Armed Forces Tribunal (in short, "Tribunal"), Principal Bench, New Delhi in Original Application No. 1404/2017 (in short, "OA"), titled *Ex MCEAR-II Satyavir Singh v. Union of India & Ors.*, by which the learned Tribunal partially allowed the OA filed by the respondent herein and



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directed the petitioners herein to conduct a Re-Survey Medical Board (in short, “RSMB”) of the respondent to assess his future entitlement of disability pension.

3. The petitioner further challenges the Order dated 18.05.2023 passed by the learned Tribunal in Miscellaneous Application (in short, “MA”) 113/2021 filed by the respondent in the abovementioned OA, by which the learned Tribunal has further directed the petitioners herein to calculate, sanction and issue the necessary corrigendum Pension Payment Order (in short, “PPO”) to the respondent. Additionally, the respondent has been held entitled to get the disability pension @ 40% for life to be rounded off to 50% from 16.03.2022, the date on which the RSMB was approved.

4. The learned counsel for the petitioners submits that the learned Tribunal has failed to appreciate that the respondent was enrolled in the Indian Navy on 11.01.1973, and discharged on 31.08.1992. The Release Medical Board (in short, “RMB”) recognized only hypertension as aggravated by service, assessing it at 25% disability for two years. The other disabilities, that is, Obesity and Hypercholesterolemia, were deemed neither attributable to nor aggravated by service. The respondent’s claim for disability pension was subsequently rejected by the Medical Adjudicator (Pension), and the first appeal dated 31.07.1993 was also rejected by the Ministry of Defence (in short, “MoD”) on 26.02.1997. Therefore, it was with a substantial delay of more than 20 years that the respondent filed the above-mentioned OA. The learned Tribunal, however, without appreciating the delay on behalf of the respondent in approaching the



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learned Tribunal, granted partial relief to the respondent *vide* its Order dated 17.03.2020, and thereafter, full relief by the Order dated 18.05.2023.

5. We are unable to accept the submissions made by the learned counsel for the petitioners.

6. In the present case, the learned Tribunal by its Order dated 17.03.2020 directed the petitioners herein to conduct a RSMB of the respondent to assess his future entitlement of disability pension. The said order was not challenged before this Court and only now has been challenged in form of the present petition, that is, after a delay of more than four years, and after having implemented the said order by actually conducting a RSMB.

7. In any case, the learned Tribunal while directing a RSMB had observed that the RMB had found the respondent to be suffering from hypertension which was aggravated by service and assessed at 25% disability for two years. The said report was, therefore, valid only for a period of two years with effect from 31.07.1992, and the respondent should have been subjected to a further re-medical survey. Therefore, even on merit, no fault can be found in the direction issued by the learned Tribunal in its Order dated 17.03.2020.

8. In the RSMB, it was reported that the respondent was suffering from hypertension which was aggravated by the service and assessed at 50%. The RSMB modified the composite assessment to 40% owing to para 4(c) of the RSMB (nature of the disease and effect of non-service factors). The learned Tribunal in its Order dated 18.05.2023 has relied upon this RSMB which was conducted on 12.02.2022, and



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has directed the petitioners to release disability element of pension @ 40% for life to be rounded off to 50% to the respondent with effect from 16.03.2022. We find no fault in this direction passed by the learned Tribunal.

9. In view of the above, we find no merit in the present petition. The same is dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 27, 2024/ab/B/as

Click here to check corrigendum, if any