

W.P.C.T. 108 of 2025

Union of India & Ors.

Vs.

Ex Rect 15775576X Sk Sajjad Hossain

Mr. Uday Sankar Bhattacharya,
Mrs. Sarda Sha,
Ms. Dipasree Dey

...for the Petitioners

Ms. Manika Roy,
Ms. Ankita Chowdhury,
Mr. Atanu Sur

...for the Respondent

1. Heard the learned counsel for the petitioners and the learned counsel for the respondent.
2. The brief facts which have brought the applicant before the Armed Forces Tribunal, Kolkata Bench ('Tribunal' in short) were that after his enrolment on 28.03.2001, he was released under low medical category on 25.07.2001. Having served the force for a period of about four months, he was released on low medical category on the ground that he was detected to be suffering with a condition called "Termors". Eighteen (18) years thereafter he has filed the Original Application before the Tribunal which has been allowed. The order passed by the Tribunal in O.A. No. 71 of 2019 with M.A. No. 42 of 2019 on 05.08.2024 is the subject matter of the present writ petition filed by the Union of India.
3. The learned counsel for the petitioners submits that without proper application of mind the Tribunal has condoned a period of about 17 (seventeen) years of delay. He further submits that

the impugned order passed by the Tribunal does not manifest any consideration of the petitioners' claim with reference to the law which has been taken note of in the impugned order.

4. We have called upon the learned counsel for the respondent to point out as to where the consideration has been made by the Tribunal in the impugned order.
5. It is submitted by the learned counsel for the respondent that the Tribunal has taken into consideration the settled legal position. She, however, is unable to show from the judgement as to in which part of the judgement, the petitioners' claim has been considered with reference to the legal proposition recorded in the order.
6. There being no such consideration, we find that the matter is required to be considered and disposed of by a reasoned and speaking order in accordance with law. The order sans any reasoning is clearly unsustainable.
7. The learned counsel for the petitioners has tried the case on merits.
8. At this juncture, we consider it appropriate to take note of the fact that we are exercising jurisdiction under Article 226 of the Constitution of India. The contours of judicial review is by now settled. The decision making process is subject matter of judicial review, and the process in the present

case being devoid of any reasons is clearly unsustainable.

9. We, therefore, set aside the order passed by the Tribunal and relegate the matter to the Tribunal for decision afresh.
10. The learned counsel for the respondent submits that the applicant will enter appearance within two weeks and that the matter may be disposed of expeditiously.
11. This Court, therefore, would observe that the Tribunal should proceed to consider the petitioners' case expeditiously and without granting any undue adjournments in accordance with law.
12. The Writ Petition being **W.P.C.T. No. 108 of 2025** is accordingly allowed.
13. This order may not be deemed to be an expression on the merits of the claim pending before the Tribunal after its remand.
14. There will be no order as to costs.
15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)