



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6723 OF 2024
Ramkishor Siddheshwar Yadav Vs. The Deputy Inspector General and
others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.D. Dhande & Ms. Sakshi Tiwari, Advocates for Petitioner
Mr. C.J. Dhumane, Advocate for Respondent Nos.1 to 4

CORAM: **AVINASH G. GHAROTE AND**
 ABHAY J. MANTRI, JJ.

DATED : **27th MARCH, 2025**

1. Heard Mr. Dhande, learned counsel for the petitioner and Mr. Dhumane, learned counsel for the respondents. The petition questions the decision dated 16.01.2024 (page 92), by which the petitioner, who was serving as a Constable in Border Security Force has been retired from the services, on the ground of physical fitness of 100% disability (invalidation, medical board) under the provisions of Rule 25 of the Border Security Rules, 1969, with all pensionary benefits under Rules 39 and 44 of the CCS (Pension) Rules, 2021 w.e.f. 31.1.2024 (A.N.) The learned counsel for the petitioner taking exception to the decision contends, that the ailment of “Toxic Optic Neuropathy B/L Eyes” was suffered by the petitioner during the course of the services and, therefore, the petitioner was entitled for the

disability pension. It is further contended, that the Review Medical Board was required to be constituted, and as the same was, not done, it vitiates the impugned decision.

2. Mr. Dhumne, learned counsel for the respondents supports the impugned decision and contends, that since the Medical Board out cannot be related to the services, the petitioner has rightly been denied disability pension.

3. Insofar as the constitution of the Review Medical Board is concerned, the same has to be done upon the application filed consequent to the order of the retirement, within a period of 15 days from the date of receipt of the communication of retirement, in terms of Rule 25(4) of the Border Security Force Rules, 1969. The order of retirement is dated 16.1.2024 (page 92), the receipt of which is not disputed. There is no material on record to indicate, that within 15 days of receipt of the order of the retirement, the petitioner had ever moved an application under Rule 25(4) for constituting a Review Medical Board. That being the position, since a Review Medical Board is required to be constituted, upon an application by the retired employee in terms of Rule 25(4) of the aforesaid Rules and since there was no application at all by

the petitioner, the non-constitution of the Review Medical Board cannot be raised as a ground to challenge the impugned decision.

4. Insofar as the plea, that the disability of the petitioner, is related to the service of the petitioner, we find, that the petitioner had started losing his eyesight from 03.10.2010 when he was detailed to undergo MMG course at T.C. and S. Hajaribagh, w.e.f. 06.9.2010 to 20.11.2010, when on 03.10.2010 he reported to BSF Hospital, Hajaribagh with the complaint of progressive onset of diminished vision of both eyes, which occurred due to consumption of some alcohol, where after some primary treatment, he was referred as emergency at Sadar Hospital, Hajaribagh and later on to RIMS, Hospital, Ranchi for further management where on 05.10.2010 he was diagnosed as a case of "Toxic Optic Neuropathy B/L Eyes". The discharge summary dated 17.11.2010, (page 52) at RIMS, Rabindranath Tagore International Institute at Kolkata, where the petitioner was thereafter admitted, indicated that onset of episodes regarding visual difficulty as per case history started 36 hours after the petitioner took some alcohol drink. This report of the discharge summary has not been questioned by the petitioner

at any point of time. The Court of Enquiry and as well as the impugned decision, therefore, records and in our considered opinion rightly so, that the above diagnosis cannot be related to the service of the petitioner.

5. It is not disputed that any disability pension would be payable only in case the Medical Board out could be related to the services of the petitioner, which is not the case in the present matter.

6. In view of above discussion, we are not inclined to accept the contention, that the petitioner is entitled for disability pension and for that matter interfere in the impugned decision of retirement dated 16.1.2024 (page 92) or finding of Court of enquiry dated 03.8.2023 which though has not been annexed has been filed by the respondents at (page 189), as nothing has been brought to our notice to take a view different than what has been opined therein. The petition is dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)