

W.P.No.13751 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2025

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CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.13751 of 2024

Ex Dfr Gopavaram Gundamaiah
S.No.1099581-Y

.. Petitioner

v.

1. Union of India represented by its
Secretary to Government of India
Ministry of Defence, South Block
New Delhi 110 011

2. Chief of Army Staff
Army Head Quarters (AHQ)
Defence Head Quarters (DHQ)
Integrated Head Quarters (IHQ)
New Delhi 110 011

3. Principal Controller Defence Accounts (Pension)
Droupati Ghat, Allahabad
Uttar Pradesh 211 014

4. The Officer-in-Charge, Records
Armoured Corps Records
Pin 900 476, C/o 56 APO

.. Respondents



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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the passing of the order dated 07.12.2021 in O.A.No.111 of 2019 with M.A.No.135 of 2019 on the file of the Armed Forces Tribunal, Regional Bench, Chennai and quash the same, consequently direct the respondents to grant the disability element of disability pension with all attendant benefits.

For Petitioner :: Mr.M.Selvaraj

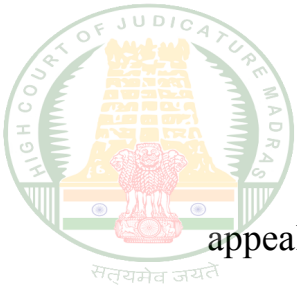
For Respondents :: Mr.V.Balasubramanian
Senior Panel Counsel

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

Under assail is the order dated 7th December, 2021 passed in O.A.No.111 of 2019 on the file of the Armed Forces Tribunal, Regional Bench, Chennai.

2. The writ petitioner enrolled in the Indian Army on 24.02.1992 and was discharged on medical grounds on 31.01.2013. He suffered IDs, Adjustment Disorder and Metabolic Syndrome while he was posted at Barmer and was treated at Military Hospital, Jodhpur, where the petitioner's disability was medically downgraded. The writ petitioner preferred second



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appeal and the same was rejected vide order dated 24.06.2015.

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Consequently, the petitioner was granted service pension vide PPO No.S/020424/2013 (Army) dated 03.04.2013.

3. The petitioner filed the original application before the Armed Forces Tribunal challenging the order of rejection in proceeding dated 24.06.2015 and seeking for a direction to the respondents to grant disability element of disability pension with effect from 01.04.2000 with broadbanding benefits.

4. The facts regarding the service particulars of the writ petitioner are not disputed by the respondents.

5. The learned counsel for petitioner would submit that as per the Guide to Medical Officers (Military Pension) 2002, the case of the petitioner ought to have been considered by the authorities for grant of disability element of pension. He would submit that the petitioner was posted from 09.02.2006 to 12.10.2007 in Pulwama, which is a field with



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high altitude extremely cold and icy area where he suffered varying blood pressure and other vital organ instability due to extremely difficult terrain and hard duties. All these mitigating factors, due to the posting of the petitioner in high altitude places, have not been taken into consideration by the authorities for grant of disability element of pension. Though the abnormal physical and mental stress in field service was recognized by the superior officers, when the matter of consideration came, they failed to look into the same. The petitioner was downgraded from medical category lower to AYE permanent with percentage of 40 per cent for life and subsequently discharged from service. That being so, the Tribunal ought to have considered the said factors for granting the relief.

6. The respondents opposed the contention by stating that the original application is not maintainable, since it was filed beyond the period of three years from the date of expiry of the period of limitation as contemplated under Section 22 of the Armed Forces Tribunal Act, 2007. The first appeal was rejected vide order dated 21.07.2014 and the second appeal was rejected on 24.06.2015. However, the original application was filed in the



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year 2019 after a lapse of four years from the date of passing of the order in

the second appeal.

7. Admittedly, the petitioner was discharged from service on 31.01.2013. He was discharged in low medical category S2 (P) and P2 (P) for disabilities, namely, adjustment disorder and metabolic syndrome. The Tribunal considered the grounds raised between the parties. The findings of the Tribunal are that the petitioner's invaliding diseases, adjustment disorder and metabolic syndrome clearly fall outside the purview of attributability/aggravation to military service thus making him ineligible for disability pension.

8. Regarding the report of the medical board, it is an expert report, which need not be interfered with by the High Court unless an error apparent is identified. The Court cannot substitute its opinion regarding the findings in the medical report. Even in cases an error apparent is noticed by the Court, the matter is only to be remanded for re-examination and the Court is not expected to substitute its opinion, more specifically with



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reference to the guidelines for assessment issued for medical officers, who will be examining the personnel. In the present case, the petitioner has not challenged the medical report during the relevant point of time. The original application itself was filed beyond the period of limitation and directly hit by Section 22(1) of the Armed Forces Tribunal Act, 2007. The delay was enormous and cannot be condoned in a routine manner. In view of the facts and circumstances, we do not find any infirmity in respect of the findings of the Tribunal made in the impugned order. Consequently, the writ petition stands dismissed. No costs.

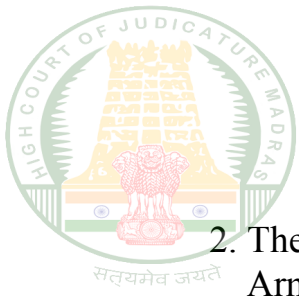
Index : yes
Neutral citation : yes

(S.M.S.,J.) (K.R.S.,J.)
21.02.2025

ss

To

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Ministry of Defence, South Block
New Delhi 110 011



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