



W.P.No.23484 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

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CORAM :

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

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1. Union of India
through the Secretary to Government of India
Ministry of Defence
South Block, New Delhi 110 011
2. Chief of the Army Staff
South Block, Integrated Headquarters of
Ministry of Defence (Army), DHQ Post
South Block, New Delhi 110 011
3. Army Group Insurance Fund
Adjutant General's Branch
Integrated Headquarters of Ministry
of Defence (Army)
Rao Tula Ram Marg
Post Bag No.14, Vasant Vihar Post
New Delhi 110 057
4. The Principal Controller of Defence Accounts (Pension)
Draupadi Ghat, Allahabad
Uttar Pradesh 211 014



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5. Additional Directorate General of
Manpower (Policy & Planning)/ MP 5(B)
Adjutant General Branch
Integrated Headquarters of Ministry of Defence (Army)
Wing No.3, Ground Floor, West Block III
R.K.Puram, New Delhi 110 066 .. Petitioners

v.

1. The Registrar
Armed Forces Tribunal
Rudra Road
St.Thomas Mount
Chennai 600 116

2. IC-31598X Col A Jaganarayanan (Retd) .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records dated 31.10.2023 passed in O.A.No.86 of 2022 on the file of the 1st respondent thereby quashing the impugned order.

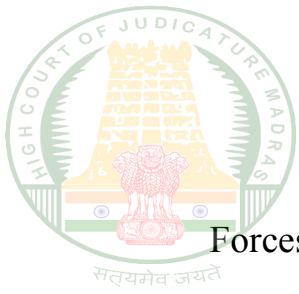
For Petitioners :: Mr.V.Balasubramanian
Senior Panel Counsel

For Respondents :: R1-Tribunal
Mr.M.Santharam for R2

ORDER

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

Under assail is the order dated 31.10.2023 passed by the Armed



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Forces Tribunal, Regional Bench at Chennai in O.A.No.86 of 2022.

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2. The second respondent instituted original application claiming disability pension w.e.f. 01.04.2006 from 30% duly broadbanded to 50% for life, which was allowed by the Armed Forces Tribunal by the impugned order. Aggrieved thereby, the respondents in the original application have instituted the present writ petition before this Court.

3. The records would show that the second respondent was commissioned in the Indian Army on 21.12.1975 (PC) and retired from service on 31.03.2006 on reaching the age of superannuation. The second respondent was placed in low medical category S1H1A1P2E1 for disability 'Primary Hypertension', which was regarded as 'NANA' with degree of disablement @ 30% for life and the Release Medical Board considered the said disability as neither attributable to nor aggravated by military service. Therefore, the initial claim of the second respondent for grant of disability pension was rejected by the competent authority vide the letter dated 31.01.2006. After a long delay of 15 years, the second respondent preferred



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petitions on 15.06.2021, 13.09.2021 and 02.12.2021 claiming disability pension, which were rejected by the competent authorities vide the letters dated 19.07.2021, 27.10.2021 and 08.02.2022 respectively stating that the disability is neither attributable to nor aggravated by military service.

4. Heard the learned counsels appearing for the parties to the lis. Question arises whether the second respondent is eligible to claim disability element of pension under Regulation 53 of the Pension Regulations for the Army, 1961 (Part 1)?

5. Para 53 of the Pension Regulations for the Army, 1961 (Part 1) reads as under:-

“53.(1). An officer retired on completion of tenure or on completion of terms of engagement or on attaining the age of 50 years (irrespective of their period of engagement), if found suffering from a disability attributable to or aggravated by military Service and recorded by service Medical Authorities, shall be deemed to have been invalided out of service and shall



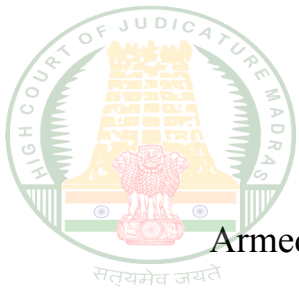
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be granted disability pension from the date of retirement, if the accepted degree of disability is 20 percent or more, and service element if the degree of disability is less than 20 per cent. The retiring pension/retiring gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/service element, as the case may be.”

6. The above provision in clear terms indicates that a disability which is either attributable to or aggravated by military service and so recorded by Release Medical Board, may be taken into consideration for grant of disability pension. In the case of second respondent, the reason recorded by the competent authority would show that the disability of 'Primary Hypertension' suffered by the second respondent is not attributable to or aggravated by military service vide the letter dated 31.01.2006. While so, after a lapse of about 15 years, fresh petitions were filed by the second respondent, which were rejected by the petitioners stating that the claim for disability pension was already rejected vide the letter dated 31.01.2006 itself. The rejection order of the year 2002 has been challenged before the



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Armed Forces Tribunal in O.A.No.86 of 2022. Thus the original application itself is hit by Section 22 of the Armed Forces Tribunal Act, since it was filed beyond the time limit prescribed under the Act.

7. The Tribunal, without even going into the issue of limitation, has erroneously granted the relief in favour of the second respondent by relying upon the judgment of the Hon'ble Supreme Court in the case of *Dharamvir Singh v. Union of India and others*, (2013) 7 SCC 316. In the said case, the Supreme Court, in paragraph 32, reiterating the principles that each case and its facts ought to be considered with reference to the nature of disability and with reference to the medical evidence available on record, observed as follows:-

“32. Para 1 of Chapter II -- “Entitlement: General Principles” specifically stipulates that certificate of a constituted medical authority vis-a-vis invalidating disability, or death, forms the basis of compensation payable by the Government, the decision to admit or refuse entitlement is not solely a matter which can be determined finally by the medical authorities alone. It may require also



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the consideration of other circumstances e.g. service conditions, pre and post-service history, verification of wound or injury, corroboration of statements, collecting and weighing the value of evidence, and in some instances, matters of military law and dispute. For the said reasons the Medical Board was required to examine the cases in the light of etiology of the particular disease and after considering all the relevant particulars of a case, it was required to record its conclusion with reasons in support, in clear terms and language which the Pension Sanctioning Authority would be able to appreciate.”

8. In the case before the Supreme Court, the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant therein at the time of acceptance for military service. However, in the present case, the nature of disability suffered by the second respondent is found to be neither attributable to or aggravated by military service by the competent authority based on the report of the Release Medical Board. When the medical assessment per se would indicate that the second



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respondent is ineligible for disability pension, the observations of the Hon'ble Supreme Court in Dharamvir Singh's case would be of no assistance to the second respondent to secure the relief from the hands of the Tribunal.

9. In view of the above facts and circumstances, the order impugned passed by the Armed Forces Tribunal, Regional Bench, Chennai dated 31.10.2023 in O.A.No.86 of 2022 is quashed and the writ petition stands allowed. Consequently, W.M.P.Nos.25672 & 25673 of 2024 are closed. No costs.

Index : yes
Neutral citation : yes

(S.M.S.,J.) (K.R.S.,J.)
07.03.2025

SS

To

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Ministry of Defence
South Block
New Delhi 110 011



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