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**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.**

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**CWP-4875-2023 (O&M).
Date of Decision: 14.07.2025.**

HARMESH LAL

... Petitioner(s)

Versus

UNION OF INDIA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rajeev Anand, Advocate,
for the petitioner.

Mr. S.K. Sharma, Senior Panel Counsel,
for the respondents/UOI.

VINOD S. BHARDWAJ, J. (ORAL)

Seeking directions to the respondents to comply with the provisions of Rule 3-A of the Central Civil Services (Extraordinary Pension) Rules, 1939 and to grant disability pension to the petitioner as per letter dated 03.02.2000 as modified by OM dated 10.12.2010, the instant writ petition has been filed.

2 Learned counsel appearing on behalf of the petitioner contends that the petitioner was enrolled as a Constable (General Duty) with respondent-Indo Tibetan Border Police Force on 05.05.2001 through open

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competition and after having been found suitable on the prescribed physical and medical standards. The petitioner remained posted at different stations and is a combatised soldier from 2001 to 2009. In the year 2009, while being with 25th Battalion ITBPF at Tezu in Arunachal Pradesh, the Petitioner became unwell and upon expert medical evaluation, the petitioner was found to be suffering from psychiatric illness and was diagnosed to be a case of 'Paranoid Schizophrenia (Psychosis)', at composite hospital CRPF Guwahati on 22.06.2009. He was declared to be unfit for service as a combatant in Armed Forces and was placed in lowest medical categorization of S-5 (Permanent) and recommended to be invalided from service with 100% disability. Resultantly, the petitioner was put through the Invalidation Medical Board Proceedings in November 2009. The Petitioner was granted an opportunity to rebut the said medical opinion. He appeared before the Medical Board constituted at Rajendra Hospital, Patiala and after a thorough medical examination, a fitness certificate dated 17.02.2010 declaring the petitioner as fit for active duty was issued. He was evaluated thereafter by the Medical experts from time to time but he remained in low medical category as the psychiatric illness of the petitioner was occupational and otherwise the vitals of the petitioner were stable and there was no systematic deformity or defect found in the petitioner. Later on, while he was posted under National Disaster Relief Force (NDRF) 7th Battalion ITBPF from the year 2012 to the year 2016, a Medical Board was conducted in December 2015 which placed the petitioner in low medical category S-2 Temporary for 48 weeks and on

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being evaluated at Mental Health Care Centre Saboli he was diagnosed for Schizophrenia. The same medical issue was also recorded by the Medical Board held on 06.10.2017, after noticing Schizophrenia as a principal disability and that it may be aggravated by conditions of the service. The petitioner was again placed in low medical category S-2 Temporary for 24 weeks. As a result of the low medical category, the petitioner was posted to Kurlan in Orissa. The medical examination of the petitioner was conducted again at Base Hospital, Delhi where the following opinion was given on 08.03.2021:-

"OPINION:

Patient is a long standing case of Schizophrenia. In view of his treatment history, clinical observation and serial mental state examination, AMA referral and ITBP Form No. 207 by his superior authorities both states complimentary. The patient currently in remission and maintaining with medication. Possibility of further relapse cannot be ruled out. Course of illness is unpredictable. Hence he may be placed under protected and sheltered employment S3 (T-24) wef 08.03.2021 H1A1P2 (T-24) wef 06.09.2019 E1 for further psychological observation. Read existing SHAPE guidelines for in service personal for CAPF's U.O No. I.45024/3/2004-Pers-II dated 31.07.2007. His categorization is further subjected to the approval of medical board.

FURTHER ADVISE:

- 1. Not to be handle firearms/live ammunition.*
- 2. To work under close supervision.*
- 3. Not to be deployed for duties in isolation.*

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4. He should be reviewed on due date with fresh behavioral report.

5. In case of any abnormal behavior or any depressive symptoms are seen then immediately he should be referred to Psychiatrist.

6. Alcohol should not to be issued to him from Canteen /Mess."

3 He contends that the petitioner has remained under continuous medical treatment and medical evaluation by the Expert Board. He submits that despite recommendation at different points in time for invalidation of the petitioner, the needful was not done. The petitioner was rather advised to proceed on voluntary retirement due to medical unfitness. Accordingly, the petitioner submitted an application for voluntary retirement which was later approved and petitioner was retired w.e.f. 01.04.2022. The instant writ petition has thereafter been filed claiming that the petitioner has been paid only the benefits of retirement in normal course without consideration for the various benefits like the disability pension as available under the provisions of Central Civil Service (Extra Ordinary Pension) Rules, 1939, and ex gratia for the discharge from service with permanent medical disability etc. had not been granted. He further contends that his case would be covered by the **judgment dated 29.04.2025 passed in CWP No.7807 of 2018 in the matter of Lance Naik Ashok Kumar Vs. Union of India and others.**

4 Responding to the above, counsel for the respondents contends that notwithstanding the petitioner having been diagnosed as a case of

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'paranoid schizophrenia' and having been placed under Low Medical Category (S4) since 17.07.2009, however, the disease relapsed as the petitioner was not taking proper medication or taking recourse to proper self-care. Consequent upon the experts' report dated 23.11.2009, the petitioner was referred to the Psychiatric Department who found that the petitioner did not show any sign and symptoms of psychiatric illness. The petitioner was declared mentally fit for active duties and a certificate in this regard was issued by the Rajendra Hospital, Patiala. He was thus not boarded out from service but continued to discharge his duties till his voluntary retirement on 01.04.2022. Even in the year 2021, the petitioner was referred to the Base Hospital, Delhi , ITBPF for medical review and the Board opined that the petitioner is on medications and that the possibility of relapse could not be ruled out. To avoid any mishap and considering the unpredictable behaviour of the disease, it was recommended that the petitioner be placed under protected and sheltered employment. The petitioner approached the respondent authorities for seeking details of the qualifying service. On receipt thereof the same was forwarded to the Central Record Office, ITBPF and it was intimated that the petitioner had completed 9 years, 09 months and 27 days service till 28.02.2021. On receipt of his qualifying service record and completion of 20 years of service on 28.02.2021, the petitioner submitted an application to the Commandant, 41 Battalion ITBPF on 03.12.2021 stating that he intends to take voluntary retirement on completion of qualifying service. The aforesaid request for voluntary retirement was accepted by the

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Commandant 41 Battalion ITBPF on 03.12.2021. The petitioner submitted a notice dated 22.01.2022 which was forwarded to the Deputy Inspector General, Sector Hqr (Bhubneshwar) and thereafter to the Sector Headquarter on 11.02.2022. In the counselling undertaken at the unit level by Education and Stress Counselor for re-consideration of his request for voluntary retirement, the petitioner informed that there is no other person available at his home to take care of his parents and he intends to live the rest of his life with his family members. Thus, the voluntary retirement was eventually accepted and he was retired on 01.04.2022. At no point in time, the petitioner submitted a request to withdraw his voluntary retirement notice which shows that the decision was well considered and without pressure or coercion. The petitioner having never been declared unfit for further service by any medical Board and he having not been assessed till the date of his voluntary retirement. Hence, he is not entitled to any disability pension at this stage.

5 It is further argued by the learned counsel appearing on behalf of the respondents that despite the petitioner having been diagnosed as a case of paranoid schizophrenia, the disease could be taken under control by medication. It was only on account of petitioner being irregular in his medication that the disease grew over time. As the petitioner had opted voluntary retirement, hence, CCS (EOP) Rules are not applicable to the petitioner. He, however, concedes that as per the applicable Service Rules, even if there is a contributory negligence on the part of the employee, he is

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still entitled to disability allowance which may however be proportionally determined by the respondents.

6 No other argument has been raised by the counsel appearing on behalf of the respective parties.

7 Taking into consideration the rival submissions advanced by the counsel for the parties, the present petition is disposed of with the following directions: -

- (i) That the petitioner shall appear before the Base Hospital/ Composite Hospital, Chandigarh within a period of one month for his medical evaluation and as to whether the disability was caused or aggravated on account of the service conditions. The percentage of disability shall be assessed by the experts. The report shall be furnished within a further period of two months.
- (ii) Consequent upon assessment of his disability, the competent authority shall examine the claim of the petitioner for entitlement under the Central Civil Services (Extraordinary Pension) Rules, 1939 as well as ex-gratia benefits on account of the disability as assessed. A decision on the basis of the aforesaid report shall be taken within a further period of two months thereafter.
- (iii) The admissible benefits, if any, be released in favour of the petitioner within a further period of one month, failing

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which petitioner shall be entitled to interest @ 6% per annum from the date of receipt of certified copy of this judgment.

July 14, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No