



2025:DHC:7-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 05.12.2024
Pronounced on: 07.01.2025

+ W.P.(C) 3227/2021
KULDEEP SINGHPetitioner

Through: Mr. K.K. Sharma, Adv.

versus

DIRECTOR GENERAL CRPF AND ORS.Respondents

Through: Mr. Niraj Kumar, Sr. Central
Govt. Counsel with
Mr. Chaitanya Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J.

1. The petitioner has approached this Court under Article 226 of the Constitution of India, seeking a direction to the respondents to grant him Disability Pension on the basis of the Medical Board's finding dated 02.02.2010, which had recorded that he was suffering from 40% disability.

2. Before we proceed to consider the prayer made, first a brief factual history leading to the filing of the present petition.

3. The petitioner joined the CRPF as a Constable/Driver on 05.04.1995, and was subjected to a thorough medical examination at



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the time of his selection and appointment. In the year 1999, whilst the petitioner was posted with the 52nd Battalion, Imphal, all of a sudden, he started experiencing redness in his left eye. On being referred to the GC Imphal, it was found that he was suffering from a 'Corneal Ulcer' and was given treatment for the same.

4. Thereafter, in the year 2003, a Department Rehabilitation Board (DRB) had found the petitioner 'fit' to continue in service and opined that he should only be assigned light duties and that he should appear before the next DRB. However, *vide* the order dated 02.02.2010, the petitioner was declared completely and permanently incapacitated for service of any kind in the CRPF as a Combatant due to '*Corneal Opacity with failed penetrating keratoplasty left eye*' as opined by a Board of Medical Officers held at Composite Hospital, CRPF, New Delhi. The petitioner was thereafter declared 40% disabled by the Director (Medical) Dte. Genl. CRPF *vide* the letter dated 17.02.2010.

5. The respondents issued a Show Cause Notice to the petitioner on 15.03.2010, with a direction therein to show cause as to why he should not be invalidated out of service. The petitioner duly replied to the said Notice and requested that he be allowed to serve in the Force for five more years, so as to complete 20 years of service, as he had suffered from a 'Corneal Ulcer' during his service with the CRPF. To the petitioner's dismay, the said request was rejected by the respondents *vide* the order dated 20.04.2010 and consequently, the petitioner was invalidated out of service from 21.04.2010.



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6. Upon his invalidation from service, the petitioner sent multiple written requests, requesting that he be granted Disability Pension, however, to no avail. The petitioner has, therefore, approached this Court, seeking a redressal of his grievance.

SUBMISSIONS ON BEHALF OF THE PETITIONER

7. The learned counsel for the petitioner submitted that the action of the respondents of not granting the petitioner Disability Pension is completely erroneous as at the time of the petitioner joining service, he was completely healthy and, therefore, his disability is clearly attributable to service. The action of the respondents in withholding the legitimate dues of the petitioner is completely *malafide* and violative of the principles of natural justice.

8. The learned counsel for the petitioner submitted that since no reasons for the petitioner's disability have been cited by the respondents, it is to be presumed that the petitioner's disability was attributable to or aggravated by his service with the Central Reserve Police Force (CRPF). The counsel relied upon the decision of this Court in *Mohan Lal vs Union of India & Anr.* 2018 SCC OnLine Del 11948, and judgment dated 02.12.2024 in W.P.(C) 11442/2016 titled *Manvir Singh vs Union of India*.

9. Learned counsel placed reliance on the decisions of the Apex Court in *State of Jharkhand & Ors vs Jitendra Kumar Srivastava & Anr.* (2013) 12 SCC 210; *Union of India & Anr. vs Rajbir Singh* (2015) 12 SCC 264; and the decision dated 05.10.2016 of the Orissa High Court in W.P.(C) 28470/2013 titled *Prahallad Mohanty vs*



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Union of India & Ors., while contending that in the absence of any reasons recorded by the Medical Board, the disability is presumed to have been attributable to or aggravated by service. The learned counsel, while referring to the aforementioned Judgments, submitted that once the Medical Board, at the time of the petitioner's induction, recorded no reasons suggesting that the disease which the petitioner is suffering from could be dormant at the time of his joining, the disease of the petitioner would be presumed to be attributable to service. Therefore, the present petition be allowed with the relief as prayed for.

SUBMISSION ON BEHALF OF THE RESPONDENTS

10. *Per Contra*, the learned counsel for the respondents submitted that the petitioner was given ample opportunities over the span of the last 10 years to seek all possible help for the treatment of his condition and continue serving in the Force, however, since there was no improvement in the condition of the petitioner, the respondents had no option but to invalidate the petitioner from service.

11. Learned counsel for the respondents submitted that as per Schedule-II (1) of the Central Civil Services (Extraordinary Pension) Rules, the petitioner's case was covered under Category 'A' of the Schedule II of the Rules and accordingly, the petitioner was granted invalidation pension as per the Rule 38 of the CCS (Pension) Rules, 1972. Further, the case of the petitioner would not be covered under Schedule-1 (A) of the CCS (Extraordinary Pension) Rules as his disease is not affected by the environment conditions and his service.



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12. The counsel further submitted that the petitioner was granted invalidation pension at the rate of Rs.5310/- with effect from 22.04.2010 *vide* PPO No.23903-10-3874-0, issued by the Pay and Accounts Office (PAO), CRPF, *vide* the letter dated 26.08.2010.

ANALYSIS AND FINDINGS

13. We have considered the submissions made by the learned counsels for the parties and carefully perused the record.

14. The short question that arises for our consideration is whether the petitioner would also be entitled to the grant of Disability Pension. To deal with this, we may first begin by noting the observations made by the DRB on 06.03.2009, wherein the invalidation of the petitioner was first recommended. The same reads as under:-

Sl. No.	F/No. Rank, Name and Unit	Brief history of case	Decision taken by the Departmental Rehabilitation Board.
17	95076033 Ex-CT/Dvr Kuldeep Singh	While posted in 52 bn he suffered with defective vision w.e.f. 29.11.1999. He remain under treatment at GC Hospital Imphal where he diagnosed a corneas ulcer. Referred to Eye Specialist at BH-3 Guwahati where he diagnosed as "Iberforated corneal ulcer and given treatment but no improvement of his vision. He declared unfit for active duty. He also took treatment from Dr. Bansal Eye Institute and Research Centre Private Limited Patiala at his own request and he undergone Opague Surgery left Eye but there is no improvement in his eye vision till date. Appeared before DRB during - 2002/2003 and 2004 and every time Board recommended to review in next DRB.	Recommend d for invalidation



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15. We may also refer to the Medical Board's proceeding dated 02.02.2010, which is produced as under:-

"BOARD PROCEEDING"

Proceeding of : A Board of Medical Officers
Assembled at : C.H., CRPF, Jharoda Kalan, New Delhi
On : 18/11/2009
By the order of : The IG (Med) CRPF CH N/DLI SIG. No.M-III-DLI/10 EC-IV dated 27/01/10
For the purpose of : To assessing condition for invalidation in r/o No-950760033 Ct/Dvr Kuldeep Singh Of GC New Delhi
Constitution of the Board : P.O. : Dr. Jitendra Vatsyayan, CMO(SG)
Member-I : Dr. Jaysurya, SMO
Member-II : Dr. Anil Prasad, MO

Board of officers visited the residence of No-950760033-Ct/Dvr Kuldeep Singh Of GC New Delhi on 02/02/10 for assessing his condition regarding invalidation Board discussed after going through available medical documents as per given below-

BRIEF HISTORY & OPINION:-

No-950760033 Ct/Dvr Kuldeep Singh is sent by his unit to this Composite Hospital for assessing percentage of disability and filling up form-23.

Ct/Dvr Kuldeep Singh is a case of Corneal opacity with failed penetrating keratoplasty left eye. He was examined by a board of three eye specialist at Composite Hospital Hyderabad on 24/09/09 and given category E-V(P) due to gross decrease of vision Lt. eye and in low medical category since 2000 (Completed more than 04 years in LMC).

Presently an examination his vision are as under:

Rt. eye-6/6
Vision
Lt. eye-Hand movement close to face.

Considering all the above facts this board opines that No-950760033 Ct/Dvr Kuldeep Singh is not fit for further service as combatant in CRPF and recommends his medical invalidation from service.

His percentage of disability is 40%.

Dr. Anil Prasad, MO

Dr. Joysurya, SMO

Dr. Jitendra



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Vatsyayan, CMO(SG)

Member-II

Member-I

P.O.”

16. Now, we may also refer to the Invalidation Order of the petitioner dated 20.04.2010, the same reads as under:-

**“OFFICE OF THE DIG, CRPF, GROUP CENTRE,
JHARODAKALAN, NEW DELHI-
PIN-110072**

No. P.III-1/2010-EC-8 Dated, the 20 April 2010

OFFICE ORDER-INVALIDATION

No. 950760033 CT/DVR Kuldeep Singh of Group Centre, CRPF, New Delhi was declared completely and permanently Incapacitated for further service of any kind in C.R.P.F as combatant due to **"Cornial opacity with failed penetrating Keratoplasty left eye"** by a Board of Medical Officers held at Composite Hospital, CRPF, New Delhi on 02/02/2010. On receipt of report of Medical Board from IG(Medical)/ Med. Supdt, Composite Hospital, CRPF, New Delhi, a Show Cause Notice for invalidation was issued to the said CT/DVR on 15/03/2010 under the provisions of Govt. of India's Decision No. 19(5)(1)& (2) below article 49 of CSR Vol.I, with the direction to give reply of above show cause notice within 30 days from the data of receipt of the same by him. The above notice was received by said CT/DVR on 22/03/2010 through AC(HQr) of GC, CRPF, New Delhi. In response to show cause notice, the above named Individual vide his application dated 25/03/2010 has requested to allow him to serve in this Force for five (05) years more to complete 20 years. In this regard, it would be pertinent to mention here that, the said Individual has already served in this Force for more than 10 years after having defective vision i.e. from 29/11/99 and given sufficient opportunity for treatment but no improvement noticed. Therefore, it would not be proper to retain him for any kind of service in CRPF as combatant. Moreover, DRB held at Northern Sector HQr, CRPF, New Delhi on 05/03/2009 have also recommended for his invalidation. Medical Board constituted to assess the percentage of disability has fixed the disability at 40%.

2. In view of above, No. 950760033 CT/DVR Kuldeep



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*Singh of this Group Centre is hereby **"invalidated out"** from service on the afternoon of 21/04/2010 i.e. after completion of date of communication of one month's notice and accordingly he stands struck off from the strength of this GC w.e.f the same date i.e. 21/04/2010 (AN) with 40% disability as concurred by Director (Medical) Dte. Genl. CRPF vide his letter No. RF-1/2010-Medical-4 dated 17/02/2010.*

3. The period from the date of Medical Board constituted for Invalidation to date of expiry of one month's notice/relief from this GC i.e. wef 02/02/2010 to 21/04/2010 is hereby treated as "duty" for all purposes.

To,

No. 950760033 CT/DVR Kuldeep Singh

Group Centre, CRPF,

Jharodakalan, New Delhi-72

(Through AC-HQr, GC, CRPF, New Delhi)

- sd -

(Gurender Jit Singh)

DIG, CRPF, GC, New Delhi

17. On a perusal of the DRB, the Medical Board proceedings, as well as the Invalidation Order, we find that while the petitioner has been invalidated out of service on the basis of the DRB, no reason as to whether the disability of the petitioner is attributable to or aggravated by Service has been given. The dictum of law clearly provides that in absence of any reason recorded by the Medical Board or the Invalidation Order, the petitioner cannot be denied the grant of Disability Pension. In this regard, we may refer to Rule 2 of Guidelines for Conceding Attributability of Disablement or Death to Government Service [ref. Rule 3-A (2)] of Central Civil Service (Extraordinary Pension) Rules [CCS (EOP) Rules], which is reproduced herein under:



“2. In deciding on the issue of entitlement, all the evidence (both direct and circumstantial) will be taken into account and the benefit of reasonable doubt will be given to the claimant. This benefit will be given more liberally to the claimant in field service cases”

18. A bare reading of the aforesaid provision makes it clear that the benefit of reasonable doubt is to be given to the petitioner and this benefit is to be granted more liberally when the personnel is in field service.

19. We may note that the issue in present petition has been dealt with by a Co-ordinate bench of this Court in **Mohan Lal** (supra), wherein in similar circumstances, this Court allowed the claim of the petitioner therein. The relevant extracts read as under:

“10. We may note that the report dated 02.02.1979, had been prepared at a time when the petitioner was still in service and the very fact that the said report mentions that he was suffering from the eye ailment for two years shows that the disability on account of which the petitioner had been invalidated, had arisen during the course of his service.

11. In our view reliance placed by learned counsel for the respondents on Schedule - IA of the Central Civil Services (Extraordinary Pension) Rules, 1939, which lays down a list and classification of diseases which can be contracted during the service as also a list of those diseases that are not normally affected by service, including diseases relating to eyes, would not be of any assistance to the respondents in light of the admitted position that the Medical Board had neither specified the nature of the eye ailment from which the petitioner was suffering at the time of his invalidation nor did the Board gave any opinion regarding its attributability to or aggravation on account of service conditions.

12. In view of the admitted position that the eye ailment on account of which the petitioner had been invalidated had



arisen during the course of his service and in the absence of any reasons given by the Medical Board regarding the attributability or aggravation of the petitioner's disability, following the ratio of the decision in the case of Dharamvir Singh (supra), we have no hesitation in holding that the petitioner's disability has to be treated as a result of his service conditions.

13. For the reasons stated above and in the given facts and circumstances of the present case, we deem it appropriate to quash and set aside the impugned order dated 09.03.2016 issued by the respondents. The present petition is allowed and the respondents are directed to pay the petitioner the disability pension in accordance with law for a period of three years prior to 06.01.2015, the date when the petitioner had first submitted a representation to the respondents seeking disability pension. Needful shall be done within eight weeks from today."

20. Keeping in view the findings of this Court in the aforementioned cases, we are of the considered opinion that in the absence of any reasons stated by the respondents herein, and the fact that the petitioner was fit at the time of his induction to the Force, and that the ailment arose during the service, it cannot be said that the disability of the petitioner was not attributable to or aggravated by his Service.

21. We may now turn to the entitlement of the petitioner regarding broad banding of disability element. In this regard, it would be relevant to note Rule 5(i) of Government of India's Decisions: Revised provisions effective from 01.01.1996 of the CCS(EOP) Rules, which reads as under:-

"5(i) The extent of disability or functional incapacity shall be determined in the following manner for purposes of computing the disability element forming part of benefits:-



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<i>Percentage of disability assessed by Medical Board</i>	<i>Percentage to be reckoned for computation of disability element</i>
<i>Less than 50</i>	<i>50</i>
<i>Between 50 and 75</i>	<i>75</i>
<i>Between 76 and 100</i>	<i>100</i>

”

22. Consequently, we allow the petition by directing the respondents to grant Disability Pension to the petitioner by taking his disability at 40% rounded off to 50% and, accordingly, release pensionary benefits to him within a period of two months from the date of this judgment. As there is a considerable delay in the petitioner filing the present petition, on re-determination of his pension, the arrears of pension shall be released in favour of the petitioner by the respondents commencing from a period three years prior to the filing of the present petition and shall continue to be paid in future as well.

23. The petition is allowed in the aforesaid terms.

SHALINDER KAUR, J

NAVIN CHAWLA, J

JANUARY 07, 2025

SU/FK

Click here to check corrigendum, if any