



2025:DHC:11505-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 16453/2023**
SHATRUGHANA PINGUAPetitioner
Through: Ms. Saahila Lamba and Ms.
Nidhi Sharma, Advs.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Farman Ali, CGSC with
Ms. Usha Jamnal, Adv. for UOI

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA
JUDGMENT (ORAL)

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16.12.2025**C. HARI SHANKAR, J.**

1. Twelve years after he had been enrolled as a Constable in the Border Security Force¹, the petitioner sustained a fall while on duty at the Indo-Bangladesh border on 4 February 2015. The fall was severe enough to render the lower part of the petitioner's body unresponsive. He had to be admitted to the Composite Hospital of the BSF at Siliguri from 13 to 16 February 2015, diagnosed with paraplegia. He was readmitted to the Kalinga Hospital in Odisha from 18 February 2015 to 3 March 2015, and was ultimately diagnosed as suffering from Disseminated Koch's Pott's Spine. Five years thereafter, he appeared before a Medical Board, which diagnosed him as suffering from "Effects of Pott's Spine (Paraplegia Power Grade-I) with complete loss of Bowel and Bladder control" and placed him in the

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S1H1A5(S-L)P1E1 category with 75% disability, holding that he was permanently unfit for service. The Medical Board further opined that the disability suffered by the petitioner was contracted in service, in circumstances over which he had no control and yet, in a contradictory vein, stated that the disability was not directly attributable to service. Against the entry which required the Medical Board to opine as to whether, if the disability was not directly attributable to service, it could be said to have been aggravated by service, the Medical Board entered “NA”. The petitioner was, thereafter, examined by a Review Medical Board² on 20 January 2021, which assess his medical category as S1H1A5(S-L)P1E1 with 100% disability. The RMB, too, opined that the disability was contracted in service, in circumstances over which the petitioner had no control, but held, nonetheless, that it was not directly attributable to or aggravated by the conditions of his service. A Court of Inquiry³ was convened which opined, on 10 February 2021, that, though the petitioner had sustained an injury on his back while on bona fide government duty, the injury was not so serious as good result in a disease such as Pott’s Spine. The Commandant, on 16 March 2021, agreed with the said opinion. Later, the Inspector General of the BSF, on 18 August 2021, again opined that the disablement of the petitioner due to “Effects of Pott’s Spine with complete loss of Bowel and Bladder Control” was neither attributable to nor aggravated by Government service.

2. In view of the above opinions, the petitioner’s claim to disability pension was rejected. Aggrieved thereby, the petitioner has

1 “BSF” hereinafter

2 “RMB” hereinafter



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knocked on our doors.

3. We have heard Ms. Sahila Lamba for the petitioner and Mr. Farman Ali, learned CGSC for the respondent.

4. The facts, as stated above, are undisputed. Mr. Farman Ali's principal reliance is on the statement of Dr. S.K. Verma, during the COI, to the effect that, as the petitioner had sustained a fall on 4 February 2015, and was diagnosed as suffering from Disseminated Koch Pott's Spine at the Hospital, a mere 12 days thereafter on 18 February 2015, the Pott's Spine could not be said to be attributable to the fall, and must have had an earlier etiology.

5. The fact that the petitioner was invalidated out of service as he was found to be unfit on account of the Pott's Spine from which he was suffering, is not in dispute.

6. In that view of the matter, given the extant position of law relating to entitlement to disability pension, the aspect of whether the Pott's Spine was, or was not, attributable to the fall which the petitioner had sustained, to our mind, is not of particular significance.

7. The writ petition, in our opinion, is bound to succeed, for the reason that there are two Medical Boards which have certified that the Potts' Spine from which the petitioner was suffering have been contracted by him during medical service and owing to circumstances



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beyond his control.

8. To our mind it is not necessary to enter into whether the Koch's had any connection with the petitioner's fall. Even if it did not, so long as it was contracted during his service and was owing to circumstances beyond his control, the law in ***Dharamvir Singh v. Union of India***⁴, ***Union of India v. Rajbir Singh***⁵, and ***Bijender Singh v. Union of India***⁶ is uniform to the effect that the onus is on the respondents to identify another attributable cause for the ailment and, in the absence of any such cause being attributed, the presumption would be that the ailment is attributable to service. A mere opinion that it is not attributable to service, in the absence of any other attributable factor being identified, is insufficient.

9. Following the aforesaid judgments, therefore, we are of the opinion that the petitioner is entitled to disability pension as sought. The petitioner is also entitled to *ex gratia* in terms of Office Memorandum dated 7 June 2017.

10. The writ petition is accordingly stands allowed.

11. Let the disability pension and *ex gratia* be paid to the petitioner from the date when the petitioner was released on medical grounds. Arrears be paid to the petitioner within a period twelve weeks from today. Failure to do so shall entail interest at the rate of 12% per annum till the actual payment.

4 (2013) 7 SCC 316
5 (2015) 12 SCC 264
6 2025 SCC OnLine SC 895



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12. Any amounts already paid to the petitioner would be adjusted against the payments to which the petitioner is entitled.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 16, 2025/aky

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