



2025:DHC:11210-DB



\$~142

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

+ **W.P.(C) 14296/2025**

RAJESH KUMAR SEN

.....Petitioner

Through: Ms. Saahila Lamba and Ms.
Nidhi Sharma, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Vinay Yadav, CGSC with
Mr. Ansh Kalra, Ms. Kamna Behrani, Mr.
Neeraj Raj Paulose, Advs. and Mr. Jitendra
Kumar Mishra, Officer for BSF.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

%

03.12.2025

C. HARI SHANKAR, J.

1. The petitioner seeks disability pension in terms of Rule 4¹ of the

¹ 4. Conditions for grant of disability pension or family pension.-

(1) A disability pension or family pension shall be granted under these rules, if there is a causal connection between,-

- (a) disablement of a Government servant and Government service; or
- (b) death of a Government servant and Government service.

(2) The disablement shall be reckoned as due to the Government service, if it is certified that the same is due to wound, injury or disease, which,-

- (a) is attributable to Government service; or
- (b) existed before or arose during the Government service and has aggravated thereby.

(3) The death shall be reckoned as due to Government service if it is certified that the same was caused due to or hastened by, -

- (a) a wound, injury or disease which was attributable to the Government service; or
- (b) the aggravation of a wound, injury or disease, which existed before or arose during the Government service and such aggravation is attributable to the Government service.

(4) It shall not be necessary for the Government servant or the family to submit any application for grant of disability pension or family pension under these rules.

(5) It shall be the responsibility of the Head of Office to consider each case of death or disability due to injury or disease caused to a Government servant based on the findings of the Medical Board

Signature Not Verified

Digitally Signed By: AWIP.(C) 14296/2025
KUMAR
Signing Date: 12.12.2025
11:49:43

Page 1 of 7



2025:DHC:11210-DB



Central Civil Services (Extraordinary Pension) Rules, 2023, as well as ex-gratia compensation in terms of Office Memorandum² dated 7 June 2017 issued by the Resettlement and Welfare Directorate of Ministry of Human Resources³. The OM dated 7 June 2017 reads thus:

“No.27011/64/2010-R&W (Part)
Government of India
Ministry of Home Affairs
Police Division-II
(Resettlement & Welfare Directorate)

Room No. 171/C, North Block
New Delhi, dated the 7 June 2017

OFFICE MEMORANDUM

Subject: Payment of ex-gratia lump sum compensation to Central Armed Police Forces (CAPFs) and Assam Rifles (AR) personnel who are boarded out of service on account of disability attributable to or aggravated in service.

The undersigned is directed to refer this Ministry's Office Memorandum No. 27011/64/2009-R&W dated 21/04/2011 on the subject, wherein CAPFs and Assam Rifles personnel, who are disabled in the performance of their bonafide official duty under various circumstances and are boarded out from service on account of disability attributable to or aggravated in service was allowed for payment of ex-gratia compensation amounting to Rs. 9 lakhs for 100 percent disability.

2. It has been now decided to revise rate of Ex-Gratia lump sum compensation from Rs. 09 lakhs to Rs. 20 lakhs wef 01/01/2016 for 100 percent disability to CAPFs & Assam Rifles Personnel on the basis of recommendations of 7th Central Pay Commission w.e.f. 01/01/2016. For cases with less than 100

and to take necessary action to submit the case to the competent authority, within three months of the date of receipt of the report of the Medical Board, for a decision in regard to grant of disability pension or family pension under these rules: Provided that the claim for disability pension or family pension under these rules shall not be rejected on account of any delay on the part of the Head of Office in submission of the case to the competent authority for a decision in regard to grant of disability pension or family pension under these rules.

(6) The disability pension shall consist of a service element and a disability element, which shall be determined in accordance with rule 10 of these rules.

(7) On death of a pensioner, who was in receipt of a disability pension, family pension shall be payable in accordance with sub-rule (2) of rule 11 of these rules.

² “OM” hereinafter

³ “MHA” hereinafter

Signature Not Verified

Digitally Signed By: AWIP.(C) 14296/2025
KUMAR
Signing Date: 12.12.2025
11:49:43

Page 2 of 7



2025:DHC:11210-DB



percent disability, the amount of ex-gratia compensation may be reduced in proportion to the degree of disability.

3. The other terms and conditions for admissibility of ex-gratia lump sum compensation pertaining to the circumstances, specified in DoP&PW's OM No. 45/55/97-P&PW(C) dated 11/09/1998, No. 45/22/97-P&PW(C) dated 03/02/2000 and No. 38/37/08-P&PW(A) dated 02/09/2008 will remain unchanged and applicable to decide each individual case by the Administrative Ministries concerned in consultation with their Financial Advisers.

4. This issues with the concurrence of the DoP&PW Diary No.33/5/2009-P&PW(F) dated 25.10.2016 and Ministry of Finance, Department of Expenditure vide their UO ID No. 30-2/21/2016-IC(Pt) dated 11/05/2017

5. These orders will apply to all cases of CAPFs and Assam Rifles disabled personnel boarded out on or after 01/01/2016 on account of disability attributable to or aggravated in service.

Sd/-
Prashant Nikam
Director (Pers & Air)"

2. A bare reading of Rule 4 of CCS (EOP) Rules and the provisions of the OM dated 7 June 2017 indicates that the entitlement of an officer/employee to disability pension and to ex-gratia compensation depend on whether the disability, on account of which the employee was boarded out from service was attributable to, or aggravated by, the employer's paramilitary service.

3. Despite issuance of notice and grant of time, no counter affidavit has been filed. Mr. Vinay Yadav, learned CGSC for the respondents, on instructions, seeks time to file counter affidavit. As the case deals with a person with disability, we are not inclined to accede to the request.

4. The facts are brief. While the petitioner, who was working as a

Signature Not Verified

Digitally Signed By: AWIP.(C) 14296/2025
KUMAR
Signing Date: 12.12.2025
11:49:43

Page 3 of 7



Constable in the Border Security Force⁴ and attached to 107 Bn, was working as a generator operator at the border post and repairing a bulb on a flood light pole, on 19 July 2012, he fell down, and the pole broke from the cement base, as a result of which he sustained injuries on the upper part of his right knee and dislocated his left shoulder. This left him permanently disabled.

5. A court of inquiry was instituted in 2013 to examine whether the injury and disability sustained by petitioner was attributable to, or aggravated by, his service.

6. The final remarks and the findings of the COI read thus:

“REMARKS OF THE INSPECTOR GENERAL, GUJARAT FRONTIER, BSF ON THE COI REGARDING INJURY SUSTAINED BY NO. 95129941 HC (GENERATOR OPERATOR) RAJESH KUMAR SEN OF PAP BRANCH SHQ 'BSF BARMER ATTACHED WITH 107 BN BSF

1. I generally agree with the Findings and Opinion of the Court, remarks of the Commandant 107 Bn BSF as well as DIG BSF Barmer.

2. No. 95129941 HC/GO Rajesh Kumar Sen of PAP Branch SHQ BSF Barmer was attached with 107 Bn BSF as Generator Operator since 30.06.2012. On 19 July 2012 at about 0900 hrs while repairing the right side bulb of BFL pole No.516 near BP No.812/2-S in the AOR of F coy of 107 Bn BSF, the said BFL Pole broke from the cement base due to rust and fell down on the ground. Resultantly, No.95129941 HC/GO Rajesh Kumar Sen sustained injuries on the upper part of right knee (fracture of femur bone) and his left shoulder also got dislocated. After preliminary first aid in the Mini MI Room at BOP Munabao Forward, he was immediately evacuated to Civil Hospital, Barmer where he was operated by Orthopaedic Surgeon and fracture was fitted with steel rod on 24 July 2012.



2025:DHC:11210-DB



3. *The injury sustained by the individual is attributable to bonafide Govt duty.*

4. No one is blamed for the incident.

5. I, therefore, directed that:-

(i) After completion of his treatment the individual be produced before a duly constituted Medical Board to assess percentage of his physical disability.

(ii) Financial benefits if any applicable as per rule be claimed and paid to the individual.

(iii) Expenditure incurred on treatment be reimbursed as per Rules.

(iv) PAP BSF Barmer to brief all Generator Operators to take adequate safety precautions while repairing of BFL Poles to avoid such incident in future.

(v) Engg branch, FTR HQ and SHQ under Guj Ftr to instruct to all Bns under command to carry out regular checking of the condition of BFL Poles to avoid recurrence of such incident.

(vi) Units and Sectors under Guj Ftr to process case for replacement of all rusty BFL Poles at the earliest.

Place: Gandhinagar (Gujarat)

(A K SINHA) IPS
INSPECTOR GENERAL”

7. As directed by the COI, a medical board was constituted, which examined the petitioner and recorded thus:

CONFIDENTIAL
PART-II OF MEDICAL BOARD PROCEEDINGS

Regt No.951299414 Rank- HC/GO Name Rajesh Kumar Sen
Unit/HQ SHQ BSF GSP.

1. Finding by the Board in brief (if different from the findings mentioned in Part-II). Nil

2. Opinion of the board:

Signature Not Verified

Digitally Signed By: AWP.(C) 14296/2025
KUMAR
Signing Date: 12.12.2025
11:49:43

Page 5 of 7



2025:DHC:11210-DB



The board having examined Regt No-951299414 HC/GO Rajesh Kumar Sen of SHQ BSF GSP is of the opinion that, he is suffering from the effects of fracture Rt Femur(operated) with fracture Rt Calcaneum and recurrent dislocation of Lt Shoulder and is considered unfit for further service in BSF.

3	Was the disability contracted in service? Yes	4	Was it contracted in circumstances over which he had no control? Yes
5	Is it directly attributable to condition of service? Yes	6	If so, by what specific conditions? Sustained injuries due to fall from height on 19/07/2012 on Govt. bona-fide duty (COI attached)
7	If not directly attributable to service, was it aggravated thereby and if so by what specific condition? N/A	8	Medical category recommended S1H1A5(U)(L)P1E1
9	Percentage of disability 87% (Eighty Seven percent) as assessed by the Medical Board	10	Period for which the above medical category is recommended Permanent
11	Further treatment / investigations recommended As advised by the Specialist	12	Next board due on N/A
13	Employability / restrictions: As per Medical Category (Ref Medical Manual 4 th Edition) For A5 factor:- Permanently unfit for force duties		

8. Thus, there is a clear finding of the Medical Board that the petitioner has sustained injuries due to a fall from a height on 19 July 2012 on Government *bona fide* duty, as a result of which he sustained 87% permanent disability. That finding has been returned consequent to an investigation by a Court of Inquiry. The Medical Board has also clarified that the injury was sustained in circumstances over which the petitioner had no control and that it was attributable to military service.



2025:DHC:11210-DB



9. In that view of the matter, there can be no question of disentitling the petitioner to disability pension.

10. The claim of the petitioner appears to be awaiting a resolution between desks, without any final decision being taken.

11. Accordingly, we hold that the petitioner is entitled to disability pension as well as ex-gratia compensation in terms of OM dated 7 June 2017 reproduced *supra*.

12. Let the necessary payments be made to the petitioner within a period of twelve weeks from today. Failure to pay the said amount within the period of twelve weeks shall entail interest @ 8% per annum till the date of actual payment.

13. The writ petition stands disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 3, 2025

gunn/dsn