



2025:DHC:11667-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 19272/2025 & CM APPL. 80418/2025, CM APPL.
80419/2025, CM APPL. 80420/2025

UNION OF INDIA AND ORSPetitioners
Through: Ms Ira Singh, SPC and Mr
Aryan Dhaka, Adv.

versus

EX CHEA P AJAY SINGHRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **19.12.2025**

C. HARI SHANKAR, J.

1. This is a case in which disability pension was denied to the respondent even though there was a recording by the Release Medical Board, which examined his case, that the disability of the petitioner – a tear in his right Medial Meniscus – was attributable to military service.

2. The respondent, in the circumstances, petitioned the Armed Forces Tribunal which, by order dated 29 February 2024, allowed his Original Application and directed disability pension to be disbursed to him.

3. The Union of India challenges the said decision.



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4. The only contention of Ms. Ira Singh, learned SPC for the Union of India, is that the disability percentage of the petitioner was 30%, which had been downgraded to 14% in view of the respondent's refusal to undergo surgery, and that the minimum percentage required for disability pension was 20%.

5. The Tribunal has dealt with this aspect in paras 10 and 11 of the impugned order, which read thus:

“10. It is also pertinent to refer to Regulation 104 of Navy Pension Regulation, 1964 which provides to the effect:-

“14. The respondents submit that as per Regulation 104 of Navy Pension Regulation, 1964, it is provided to the effect:-

(a) if the refusal to undergo treatment or an operation is reasonable, the full disability pension normally admissible may be granted.

(b) if the refusal to undergo treatment or an operation is unreasonable.

(i) If the pension sanctioning authority, in consultation with Medical Advisor (Pension) where necessary decides that an operation or medical treatment will cure the disability.

The disability pension shall be withheld but the normal service pension or gratuity, if any, admissible under these regulations, or the pension or gratuity, if any admissible under regulation 110 may be granted, and the disability element or pension shall be restricted to that appropriate to the lower percentage of disablement.

(ii) If the pension sanctioning authority, in consultation with the (Medical Advisor Pension), where necessary, decides that an operation or medical treatment will reduce the disability to a lower percentage.

If that lower percentage is less than twenty per cent, the normal, service pension or gratuity, if any, admissible under these regulations, or the pension or gratuity, if any, admissible under regulation 110 may be granted.”



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11. Thus in the light of the Regulation of Navy Pension Regulation, 1964 quoted above, refusal to undergo medical treatment by the applicant herein thus has to be held to be reasonable as it is apparent that in the RMB Proceedings itself it had been expressed therein that the percentage of success after surgery was only 30%, and the reduction of the percentage of disablement of the applicant from 20% to 14% just because the applicant was unwilling to undergo surgery, for a disablement which was well attributable to service, is wholly erroneous.”

6. The Tribunal has noted that Regulation 104 permits grant of full disability pension if the refusal to undergo surgery is on a reasonable ground.

7. Inasmuch as the chance of success in surgery was only 30%, the respondent's refusal to undergo surgery has been regarded as reasonable by the Tribunal.

8. In exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India, we do not find any case is made out for interference.

9. The writ petition is accordingly dismissed.

10. Let compliance with the impugned order of the Tribunal be ensured within a period of twelve weeks from today.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 19, 2025

dsm

Signature Not Verified

Digitally Signed By: AWIP.(C) 19272/2025
KUMAR
Signing Date: 24.12.2025
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