IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE THE ACTING CHIEF JUSTICE P.SAM KOSHY

AND

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION No.26054 of 2025
(CNR No.HBHC010509512025)

Date of Order : 11.11.2026

Reserved on: 24.08.2026 **Pronounced on**: 11.11.2026
Uploaded on: 12.11.2026

Between:

Union of India, represented by its Secretary to Government of India, Ministry of Defence, South Block, New Delhi -110011 and 3 others.

...Petitioners

AND

Ex. Sep. Sk. Samulla.

...Respondent

ORDER: *(per Hon'ble the Acting Chief Justice P.Sam Koshy)*

Heard Mr. Arvind Kumar Kata, learned Senior Standing Counsel for Central Government appearing on behalf of the petitioners; and Mr. S. Govinda Rao, learned counsel for the respondents.

2. The instant Writ Petition under Article 226 of the Constitution of India has been filed by the petitioner challenging the order dated 03.03.2022, passed by Armed Forces Tribunal, Regional Bench, Chennai, Circuit Bench at Hyderabad (for short the 'Tribunal') in O.A. No.78 of 2020 along with M.A.No.76 of 2020.

3. *Vide* the impugned order, the Tribunal held that the respondent is eligible for pensionary benefits and condoned the shortfall of service of one year.

4. The facts of the case are that the respondent herein, who was the applicant before the Tribunal, was enrolled in the Indian Army on 05.07.2000 and was invalided out of service on 19.01.2010 under Rule 13(3) III of the Army Rules, 1954, after rendering 9 years, 6 months and 15 days of service. The Invaliding Medical Board, duly constituted at the Command Hospital, Northern Command, assessed the disability of the respondent namely "Alcohol Dependence Syndrome" on 29.12.2009 as neither attributable to nor aggravated by military service, and there being no connection between the service and the disability. The disability was assessed at 11 to 14%, and the net assessment for disability pension was accordingly held to be not applicable.

5. The claim of the respondent for disability pension was thereafter adjudicated by the Army authority namely the Officer In-charge, Army Medical Corps Record Services, in the light of the existing medical and administrative provisions, and it was decided that the respondent was not entitled to disability pension. This decision was rendered by the competent authority on 18.08.2010. No appeal was preferred by the respondent against the said decision, and he approached the Tribunal directly.

6. The claim of the respondent for invalid gratuity was, however, admitted and Invalid Gratuity, DCRG and MOC were sanctioned *vide* letter No.G/3/85/84/3-11, dated 24.03.2011. After a lapse of 10 years, an application dated 27.09.2014 was preferred by the respondent, which was suitably replied to by respondent No.4 *vide* letter dated 22.01.2015. A total amount of Rs.28,66,777/- was paid to the respondent towards the benefits. According to the Department, 2 issues arose for determination: first, whether the respondent was eligible for invalid pension, having been invalided out; and second, whether the respondent was entitled to pensionary benefits after condonation of the shortfall in pensionary service, since he had rendered more than 9 years, 6 months and 15 days of qualifying service before being invalided out of service on medical grounds.

7. On the first issue, the Tribunal held that the respondent was clearly not eligible for disability pension since the Medical Board had declared the invaliding disease "Alcohol Dependence Syndrome", assessed at 11 to 14%, to be neither attributable to nor aggravated by military service. The Tribunal held that there was no infirmity in the proceedings and no reason to interfere with the findings of the Medical Board. Reliance was placed on the extant provisions of Regulation 117 of the Pension Regulations for the Army, 1961 which deal with individuals invalided out on account of indulgence in drugs and drink. It was further held by the Tribunal that it was a settled proposition of

law that, where the Medical Board had assessed the disability at 11% to 14% as neither attributable to nor aggravated by military service and unconnected with it, the Tribunal ought not to have allowed the claim of the respondent. The Department also stated that the High Court and the Hon'ble Supreme Court had held time and again that the Courts do not have the necessary medical expertise to assess disability and must therefore maintain restraint in matters of medical assessment.

8. The Tribunal was accordingly stated not to have been justified in interfering with a medical assessment that had been made by following due process of law.

9. Aggrieved by the same, the Department challenged the impugned order by way of the present Writ Petition.

10. Learned Senior Standing Counsel for the Central Government submitted that the respondent is not eligible for disability pension, as the Medical Board has declared the Invaliding Disease 'Alcohol Dependence Syndrome' 11-14% and not attributable nor aggravated by Military Service. There is no infirmity in the proceedings nor any reason to interfere in the findings of the Medical Board by virtue of Regulation 117 of Pension Regulations for the Army, 1961 regarding 'Individuals Invalided' out on account of Indulgence in Drugs & Drinks.

11. Learned Senior Standing Counsel for the Central Government further submitted that it is a settled preposition of law that when the

Medical Board assessed the relief at 11% to 14%, it cannot be attributable nor aggravated by military service and it is not connected to military service. Therefore, the Tribunal ought not to have allowed the claim of the respondent.

12. Learned Senior Standing Counsel for the Central Government also contended that the Courts do not have the necessary medical expertise to assess the disability and as such must maintain restraint in medical assessment. Hence, the Tribunal is not justified in interfering with medical assessment, which has been done by following due process of law.

13. Having heard the learned Senior Standing Counsel for the Central Government at the stage of admission and on a perusal of records, the question that falls for our determination is "whether the impugned order passed by the Tribunal which holds the respondent eligible for invalid pension and the pensionary benefits that follow and condones the shortfall in his qualifying service, calls for interference under Article 226 of the Constitution of India in view of the finding of the Invaliding Medical Board that his disability is neither attributable to nor aggravated by military service and the rule of judicial restraint in the matters of medical assessment?"

14. The present Writ Petition is taken up and disposed of at the admission stage. This Court has jurisdiction under Article 226 to examine the orders of the Armed Forces Tribunal, but the jurisdiction

is supervisory. It does not make this Court a second appellate forum. It is exercised where the Tribunal has acted without jurisdiction or has committed a patent error of law or has reached to a conclusion that is perverse. The Department must show that the Tribunal ignored a statutory provision or misapplied a binding precedent or arrived at a result that no reasonable adjudicator could reach. A different view of the matter is not a ground for interference.

15. We have perused the order of the Tribunal which examined the pleadings and the record at length and has relied extensively on various judgments and applied them to facts that are not in dispute. The respondent was enrolled in the Indian Army on 05.07.2000 and was invalided out of service on 19.01.2010 under Rule 13(3) III of the Army Rules, 1954 after rendering 9 years 6 months and 15 days of service. The Invaliding Medical Board had found him medically unfit. The Army itself sanctioned Invalid Gratuity DCRG and MOC to him by letter dated 24.03.2011. On these facts the Tribunal held that he is eligible for invalid pension and condoned the shortfall in his qualifying service. An order that rests on authority and on admitted facts is not one that we can fault merely because the Department wishes for a different outcome.

16. The Department relied on the finding of the Invaliding Medical Board that Alcohol Dependence Syndrome assessed at 11 to 14% is neither attributable to nor aggravated by military service. The contention of the learned Senior Standing Counsel for the Central

Government is that this finding bars the claim. We do not accept that the finding has this effect. Attributability to or aggravation by service is the test for disability pension which is a compensatory benefit that depends on the cause of disability and the extent of the disablement. Invalid pension is a different benefit which is meant for a person who is invalided out on medical grounds and who has the qualifying service that the pension scheme requires. The finding of non-attributability answers the first question and does not answer the second.

17. The Department's own affidavit shows the mismatch. The first issue is stated by them to be whether the respondent is eligible for invalid pension having been invalided out. The answer they give is that the respondent is not eligible for disability pension because the disability is not attributable to service. That answer is addressed to a different benefit. The second issue which the Department frames is whether the respondent is entitled to pensionary benefits after condonation of the shortfall in pensionary service. The Department thus acknowledge that the real controversy concerns the qualifying service and not the attributability of the disease.

18. The Department relied on Regulation 117 of the Pension Regulations for the Army, 1961 which as they describe it deals with individuals invalided out on account of indulgence in drugs and drink. The Department has not shown that the regulation takes away invalid pension from a person who has otherwise qualified for it. They have also not shown any finding that the respondent was discharged for

misconduct. He was invalided out on medical grounds and the Army sanctioned the benefits that follow 'invalidment'. A regulation that defeats a pensionary benefit must be read strictly and cannot be extended by implication to a case that is not clearly within its terms.

19. This Bench accepts the principle that Courts and Tribunals do not possess medical expertise and must be slow to disturb the assessment of a duly constituted medical board. This Bench applied that principle. Neither the Tribunal nor this Court has substituted its own medical opinion. The finding of the Invaliding Medical Board on the nature of the disease and its non-attributability stands undisturbed. What the Tribunal decided is the legal consequence of that finding for a person who has been invalided out with a little less than 10 years of service. That is a question of interpretation of the pension regulations and of the application of precedent. It lies within the competence of the Tribunal. The rule of restraint concerns medical assessment and does not shield the legal consequences from review.

20. The respondent rendered 9 years 6 months and 15 days of service. He did not leave of his own accord. His service ended because the Army found him medically unfit. The shortfall is marginal when compared with the period of 10 years. Pension is not a bounty granted at the pleasure of the State. It is a benefit earned by service. A rule on qualifying service must be applied with that purpose in mind. The condonation of a small shortfall in the case of a person whose

service was cut short by the employer's own medical finding is consistent with the object of the scheme. The Department has not pointed to any provision that bars condonation in such a case. It has also not shown that the Tribunal exercised the power arbitrarily. Its own formulation of the second issue recognises that condonation is a known step.

21. We therefore find no jurisdictional error and no perversity in the order of the Tribunal. Accordingly, the Writ Petition stands dismissed at the admission stage and the impugned order passed by the Tribunal is upheld. The question framed in the preceding paragraph stands answered in favour of the respondent and against the Department.

22. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

P. SAM KOSHY, ACJ

NARSING RAO NANDIKONDA, J

Date: 11.11.2026
GSD