

RSA-5152-2010 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA-5152-2010 (O&M)

COMMANDANT 30 BN, B.S.F. UDHAMPUR NOW AT JALANDHAR
AND ORS.

.....Appellants

Vs.

AJMER SINGH

.....Respondent

Reserved on : 14.05.2026

Pronounced on: 15.05.2026

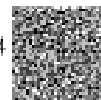
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Whether only the operative part of the judgment is pronounced? NO*Whether full judgment is pronounced?* YES**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**Present: Mr. Ramesh Chand Sharma, Advocate
for the appellants.Mr. P.K. Chugh, Advocate
for the respondent.

SUDEEPTI SHARMA J.

1. The present appeal is preferred against judgment and decree dated 07.06.2010 passed by learned District Judge, Bhiwani, whereby, appeal filed by the respondent against judgment and decree dated 08.04.2008 passed by learned Additional Civil Judge (Sr. Division), Bhiwani was allowed.

2. Brief facts of the case as per the civil suit are that respondent was discharged from services on medical grounds by BSF on 30.11.2005. He filed civil suit seeking disability pension. His plea was that he was wrongly discharged and that a sum of Rs.50,000/- on account of gratuity was pending with the appellants which had not been paid. Civil suit filed by him was dismissed vide judgment and decree dated 08.04.2008 passed by learned

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Additional Civil Judge (Sr. Division), Bhiwani. He filed appeal against the same which was allowed vide judgment and decree dated 07.06.2010 passed by learned District Judge, Bhiwani. Hence, the present regular second appeal.

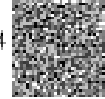
3. Learned counsel for the appellants contends that learned First Appellate Court has wrongly allowed the appeal filed by the respondent and set aside the well-reasoned judgment and decree dated 08.04.2008 passed by learned Additional Civil Judge (Sr. Division), Bhiwani. He, therefore, prays that the present regular second appeal be allowed.

4. *Per contra*, learned counsel for the respondent contends that learned First Appellate Court has rightly allowed the appeal filed by the respondent. He, therefore, prays that the present regular second appeal be dismissed.

5. I have heard learned Counsel for the parties and perused the whole record of this case with their able assistance.

6. Vide order dated 29.05.2013 passed by this Court, operation of judgment and decree dated 07.06.2010 passed by learned District Judge, Bhiwani was stayed.

7. A perusal of the record shows that respondent was examined and he gave his affidavit (Ex.PW-1/A). It is not disputed that respondent got first seizure in 1996 whereas, he joined service in the year 1990. He was not discharged on account of misconduct or absence from duty, rather he was discharged on medical grounds. The reason disclosed in the papers is that he was suffering from grandmal epilepsy and his name was struck off from rolls of B.S.F. He was considered unfit for further service by Medical Board. As per the appellants, the case of the respondent was not covered under the category of employees who were entitled to disability pension since epilepsy cannot be



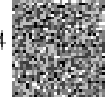
acquired during service.

8. The only question involved in the present appeal is as to whether epileptic fits/seizures are attributable to service and if the answer to the same is in affirmative then respondent would be entitled to disability pension and consequential relief.

9. Hon'ble Supreme Court in ***Dharamvir Singh Vs. Union of India, 2013(3) SCT 778*** held as under:-

*“32. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "**Genrealised seizure (Epilepsy)**" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service.*

33. As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions. "Classification of diseases" have been prescribed at Chapter IV of Annexure I; under



paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a casual connection with the service conditions.

34. In view of the finding as recorded above, we have no option but to set aside the impugned order passed by the Division Bench dated 31st July, 2009 in LPA No. 26 of 2004 and uphold the decision of the learned Single Judge dated 20th May, 2004. The impugned order is set aside and accordingly the appeal is allowed. The respondents are directed to pay the appellant the benefit in terms of the order passed by the learned Single Judge in accordance with law within three months if not yet paid, else they shall be liable to pay interest as per order passed by the learned Single Judge. No costs.”

10. In the above-referred judgment, Hon’ble The Supreme Court has held that in the absence of any evidence on record to show that the person was suffering from Generalized Seizure (Epilepsy) at the time of entry into service, it will be presumed that he was in sound physical and mental condition at the time of entering the service, and that the deterioration in his health has taken place due to service.

11. Accordingly, I do not any infirmity in judgment and decree dated 07.06.2010 passed by learned District Judge, Bhiwani and the same is affirmed.

12. Consequently, the present regular second appeal is **dismissed**.

13. Pending application(s), if any, also stand disposed of.

15.05.2026

Saahil/Ayub

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No