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

% *Date of Decision :07.01.2026*

\+ **W.P.(C) 11894/2024 CM APPL. 4324/2025**

ANIL PARMAR .....Petitioner

Through: Mr. Abhay Kumar Bhargava, Mr. Satyaarth Sinha, Ms. Shradha Mewati and Mr. Ajinkya Dhalwade, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Vedansh Anand, SPC with Mr. Kush Garg, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA. (*ORAL*)

1. The present petition under Article 226 of the Constitution of India has been filed by the petitioner seeking benefits of disability pension and quashing of the order dated 29.01.2024 ('impugned order') issued by the IG (ADM) FHQ BSF, New Delhi.

Factual Matrix

2. The relevant facts in brief as set out in the petition are as under:

2.1. The petitioner was working as a Constable at STC BSF Kharkan Camp, Hoshiarpur, Punjab. On 02.10.2016, the petitioner and his wife met with an accident while going to Civil Hospital, Hoshiarpur, Punjab on his

personal Activa Scooter due to the negligence and sudden opening of the door of Celerio Car (Maruti Suzuki) of one Sh. Ravinder Singh. As a consequence, the petitioner along with his wife collided with the opened door of the car, lost their balance and fell down on the road. They were run over by a civil truck, which was coming from behind. Afterwards, the petitioner and his wife were rushed to Civil Hospital, Hoshiarpur, where the Petitioner was diagnosed as a case of Road Traffic Accident ('RTA', for short) with head injury as well as with fracture SOH left leg, fracture Tibia Right, degloving injury of right foot and leg and foot with fracture D11-D12, L2-L3 with paraplegia, fracture 3rd metataersal left. The petitioner and his wife were further referred to PGI Chandigarh due to their critical condition.

2.2. Furthermore, on 06.10.2016 wife of the petitioner passed away. Thereafter, on 07.10.2016 considering the seriousness of injury of the petitioner, he was further shifted to Medanta Hospital Gurgaon. That while being admitted in Medanta Hospital Gurgaon, on 08.10.2016 the petitioner underwent surgery in which his right lower limb was amputated. That despite surgery, the condition of the petitioner did not improve and again on 12.10.2016 he underwent debridement of right above knee amputated stump along with percutaneous D10-11 AND L3-L4 fixation with rod and screws was done. Thereafter on 30.12.2016, the petitioner underwent transnasal trans-sphenoidal excision of pituitary tumor and was discharged on 02.01.2017. That petitioner was again admitted to Medanta Hospital Gurgaon due to complaints regarding sore sacral region grade 3 and was later on discharged on 06.03.2017 after preliminary treatment.

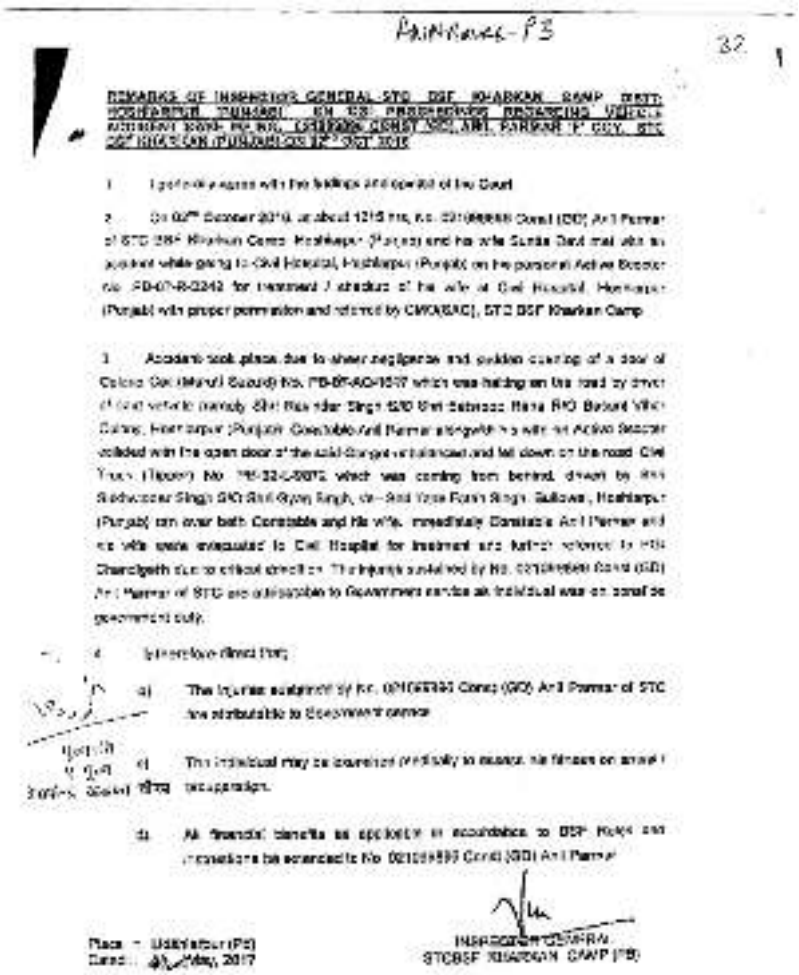
2.3. The Court of Inquiry vide proceeding dated 15.04.2017 was of the

opinion that injury of the petitioner is attributable to bona fide government service and all financial benefits should be provided to the petitioner. The said opinion reads as under: -

> *" **OPINION OF THE COURT***
>
> *After going through all the relevant witnesses and evidences produced, this court of the opinion that:-*
>
> *No 021099896 CT Anil Parmar along with his wife (Late Smt Sunita Devi) met with an accident on 02-10-2016 while they were going to Civil Hospital, Hoshiarpur for her treatment as she had been referred to Civil Hospital, Hoshiarpur by CMO (SAG), STC BSF, Kharkan Camp CT Anil Parmer had duly obtained outpass through proper channel from his Coy Cdr for proceeding to Hoshiarpur.*
>
> *No 021099896 CT Anil Parmar had no control over the circumstances under which the accident happened due to sudden opening of the door of Celerio car (No PB-17-AQ-1617) by the driver which was already halting on the road. Resultantly, the Honda Activa (two wheeler vehicle bearing registration number PB-07-R-2242) on which CT Anil Parmar and his wife were travelling struck with the door of the car after which they fell down on the road and were run over by a Civil truck (Tipper) No PB-32-L-9872 coming on the road from behind. The accident happened due to sheer negligence of the driver of Celerio car (No PB-07-AQ-1617).*
>
> *No 021099896 **CT Anil Parmar, being on bona fide government duty, may be extended all the necessary financial benefits admissible to him under such cases. The injuries sustained hy the individual are attributable to government service**.*
>
> *Further, medical category of No 021099896 CT Anil Parmar may be assessed upon his arrival in this institution after recuperation."*

2.4. The Inspector General, STC BSF, Kharkan Camp, Distt Hoshiarpur (Punjab) vide order dated 02.05.2017 agreed with the findings of the Court of Inquiry and opined that the injury sustained by the petitioner was attributable to government service, as the petitioner was on bonafide

government duty. It directed that all financial benefits should be provided to the petitioner as per BSF Rules, 1969 ('BSF Rules', for short). The order dated 02.05.2017 is reproduced hereinbelow: -



2.5. A disability certificate dated 11.10.2017 was issued by the Disability Medical Board, Civil Hospital, Bhiwani, Haryana, whereby the petitioner was declared a case of 100% permanent disability.

2.6. The petitioner appeared before the Medical Board on 13.07.2022, which awarded him a Medical Category of 'S1H1A5P5E1' and declared his

case of 100% permanent disability. Furthermore, the Medical Board opined that the disability of the petitioner was attributed to bona-fide government duty. The Medical Board further opined that the petitioner is not fit for rehabilitation in force and was declared as unfit for service.

A medical certificate dated 13.07.2022 was also issued during the course of medical board proceeding, whereby the petitioner was considered unfit for service due to 'Post Traumatic Paraplegia with above Knee Amputation of Right Lower Limb with Left Foot 3rd Ray Amputation with Fracture D12, L1, L2 with Fracture Right Transverse Process of L1/L2 with Fracture Left Transverse Process of L3/L4 and Bladder Involvement'.

2.7. The decision to retire the petitioner from duty due to physical unfitness in accordance with Rule 25 of the BSF Rules, 1969 was communicated to the petitioner by the respondents, vide a notice dated 14.09.2022.

2.8. The petitioner retired from services on grounds of permanent disability w.e.f., 10.11.2022 vide an order dated 05.11.2022 issued by the respondents on the ground that the petitioner was placed in Medical Category of 'S1H1A5P5E1' with 100% permanent disability and was considered unfit for service by the Medical Board under the provisions of Rule 25 of BSF Rules ,1969 along with pensionary benefit.

2.9. The petitioner applied for disability pension after his retirement but the same was rejected by the respondents vide impugned order dated 29.01.2024 on the ground that petitioner was not injured while performing any official task or government duty.

Submissions on behalf of the petitioner

3. Learned counsel for the petitioner states that the relevant provision is Rule 3-A of CCS (Extraordinary Pension) Rules, 1939 ('CCS (EOP) Rules,

1939', for short). The said rule read as under: -

> *"**3-A. Disablement/Death** - (1)(a) Disablement shall be accepted as due to Government service, provided that it is certified that it is due to wound, injury or disease which –*
>
> *(i) is attributable to Government service, or*
>
> *(ii) existed before or arose during Government service and has been and remains aggravated thereby.*
>
> *(b) Death shall be accepted as due to Government service provided it is certified that it was due to or hastened by-*
>
> *(i) a wound, injury or disease which was attributable to Government service, or*
>
> *(ii) the aggravation by Government service of a wound, injury or disease which existed before or arose during Government service.*
>
> *(2) There shall be a casual connection between-*
>
> *(a) disablement and Government service; and*
>
> *(b) death and Government service, for attributability or aggravation to be conceded Guidelines in this regard are given in the Appendix which shall be treated as part and parcel of these Rules.*
>
> ***G.I., M.H.A., (Dept. of Personnel & A.R.), O.M. No. F. 23 (9)-EV (A)/79, dated the 28th November, 1980**.- Clarification.- It will be seen from the new (revised) Forms "C", "D" and "E" that these forms of medical certificates have been so designed that they would indicate whether the entitlement criteria laid down in new Rule 3-A have been satisfied or not, and, therefore, normally, no other separate certificates in that behalf maybe necessary. It is essential for the Administrative Officer as well as the Audit Officer (PAO) concerned to satisfy themselves that the death/disability is, in fact, attributable to or aggravated by the Government service which alone makes in E.O.P. Award admissible and for that purpose, it is essential for both of these authorities to satisfy themselves in that behalf and certify the nexus and causal connection between disablement and Government service or between death and Government service (as the case may be), in any particular case, as laid down in the new Rule 3-A on the. basis of the medical and other documents regarding the case. If a Government servant had died in such circumstances and that a*

medical report could not be secured, even then, the nexus and the causal connection between death and Government service has to be established before conceding acceptance of death due to Government service.

(3) Notwithstanding anything contained in these rules, the degree of default or contributory negligence on the part of a Government servant may be taken into consideration in making an award under these rules in favour of such Government servant, but, shall not be taken into account where such award is made in favour of the family of such Government servant."

3.1. He states that for entitlement of disability pension, the officer is required to show that the disablement is due to an injury, which is attributable to the government service or it arose during government service and has been aggravated thereby.

3.2. He states that the Medical Board in its opinion dated 13.07.2022 has opined that the petitioner has sustained injuries due to RTA while on bonafide duty at Kharkhan Camp, which eventually led to his disability. Thus, there is a casual connection between the government service and the disability.

3.3. He states that the impugned order dated 29.01.2024 has been passed by the respondents without giving any due consideration to the Medical Board proceeding held on 13.07.2022 and the medical certificate dated 13.07.2022. He relies upon the judgment of the coordinate Bench of this Court in **Rajinder Mani v. UOI and Ors.**[1]

Submissions on behalf of the respondents

4. In reply, learned counsel for the respondents' states that the petitioner on the fateful day on 02.10.2016 was not 'on duty'. He states that for being eligible for pension the injury ought to have been sustained when

[1] 2019:DHC:1499-DB

performing an official task or a task, failure to do which would constitute an offence. He refers to para 4(b) of the Guidelines for Conceding Attributability of Disablement or Death to Government Service as applicable to CCS (EOP) Rules, 1939.

4.1. He states that indisputably when the petitioner suffered the injury leading to his disability in a road accident, he was in government service but not on government official duty or task assigned to him by the BSF.

4.2. He states that the investigation before the Court of Inquiry, its opinion dated 15.04.2017, the order of the Inspector General dated 02.05.2017 and the Medical Board opinion dated 13.07.2022 are a matter of record. He states that there is no dispute that the petitioner suffered 100% disability due to the road accident, however, no direct corelation between disablement and duty could be established.

4.3. He states that as per G.I., MHA [Dept. of Pers. & AR] O.M. No. F.23(9)-EV(A)/79 dated 28.11.1980 being a clarification on Rule 3-A of CCS (EOP) Rules, 1939, it is essential for the Administrative Officer as well as the Audit Officer concerned to satisfy themselves that disability is infact attribution or aggravated by the government service, which alone makes an EOP award admissible. He states that it is for these authorities to satisfy themselves in this behalf and certify the nexus and casual connection between disablement and government service on the basis of the medical and other documents in the case. He states that the finding of the Court of Inquiry and the Medical Board alone is not sufficient for grant of EOP benefits.

Findings and Analysis

5. We have heard the learned counsels for the parties and perused the

record.

6. It is a matter of fact that the permanent disability of the petitioner is not in dispute; the moot question is whether the said permanent disability of the petitioner is attributable or aggravated by the service.

7. The Court of Inquiry in its proceeding dated 15.04.2017 has held in favour of the petitioner and determined that the injury of the petitioner is attributable to bonafide government service and all the benefits should be provided to him.

8. The Court of Inquiry was held in pursuance to Rule 174(b) of BSF Rules, which reads as under:

> *"174.* ***Courts of Inquiry when to be Held****.- (1) A court of inquiry may be held to investigate into any disciplinary matter or any other matter of importance.*
>
> *(2) In addition to a Court of Inquiry required to be held under section 62, a court of inquiry shall be held in the following cases:-*
>
> *...*
>
> *(b) All injuries sustained by persons subject to the Act which are likely to cause full or partial disability. The court shall in such case determine whether such injuries were attributable to service or not."*
>
> (Emphasis Supplied)

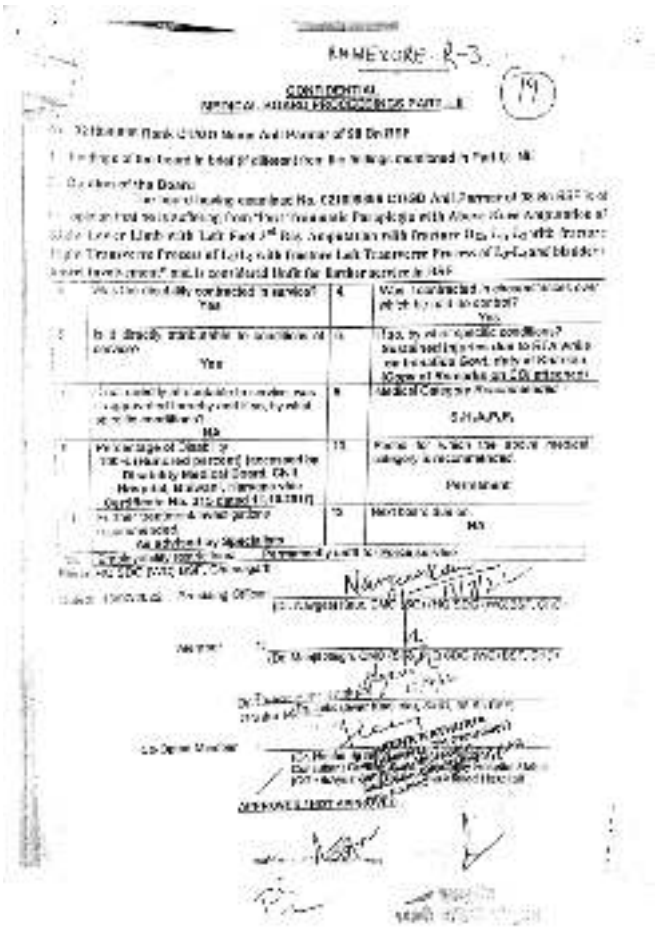
9. Inspector General, STC BSF, Kharkan Camp vide his order dated 02.05.2017 agreed with the opinion of the Court of Inquiry and opined that the injury sustained by the petitioner was attributable to government service, as the petitioner was on bonafide duty. The order further directed that all financial benefits should be provided to the petitioner as per BSF Rules. The said order was passed by the Inspector General in pursuance to Rule 175 of BSF Rules, which reads as under:

> *"175.* ***Action on the Proceedings of a Court of Inquiry****.- The proceedings of a court of inquiry shall be submitted by*

the presiding officer to the officer or authority who ordered the court. Such officer or authority on receiving the proceedings may either pass final orders on the proceedings himself, if he is empowered to do so, or refer them to a superior authority."

10. The aforesaid order dated 02.05.2017 has attained finality and was implemented as all financial benefits were extended to the petitioner.

11. The Medical Board vide its proceedings dated 13.07.2022 has unequivocally certified that the disability of petitioner was attributed to bonafide government duty. The relevant portion of the report reads as under:



ANNEXURE R-3

CONFIDENTIAL

Yes

Yes

Yes

S.H.A.P.E.

Permanent

NIL

In fact, the Medical Board has recorded the then present condition of the

petitioner, which reads as under:

> *"(ii) What is the Govt. Servant's present condition: - At present, Individual has Post-traumatic paraplegia with above knee amputation right lower limb (02.10.2016) and no bowel & bladder control. He is totally bed ridden."*

12. The aforesaid report of the Medical Board was duly accepted by the respondents and a notice for retirement was issued to the petitioner on 14.09.2022 and subsequently the petitioner was boarded out on 10.11.2022. The findings of the said report thus attained finality qua the respondents.

13. In view of the aforesaid findings the conditions of Rule 3-A of the CCS (EOP) Rules, 1939 for entitlement of disability pension to the petitioner stand satisfied. The aforesaid reports and order show that the respondents conceded that the petitioner has suffered an injury which is attributable to the government service.

14. Rule 3-A read with Rule 13(4) of the CCS (EOP) Rules, 1939 contemplate that before the Government accepts the claim for disability pension, it shall call for a medical report and a report of the accounts officer.

In the facts of this case, no report of the accounts officer has been placed on record and the medical report relied upon is dated 13.07.2022 as referred to above.

15. The petitioner has placed on record the impugned order dated 29.01.2024, issued by the respondents, which refers to a comment of PAD[2] BSF, which has not agreed to the request for grant of disability pension on the ground that there is no direct corelation between disablement and duty. The order also refers to the advice of MHA (R&WD) dated 21.12.2023, which similarly opines that it 'appears' that the petitioner was not injured

[2] Payment and Accounts Division

during performance of any official task or government duty. The respondents have sought to defend the aforesaid impugned order by contending that petitioner was not on duty at the relevant time when the accident occurred.

16. In the considered opinion of this Court, the impugned order dated 29.01.2024 is liable to be set aside as it is in complete contradiction to the findings of the Court of Inquiry's order dated 15.04.2017 passed by the competent authority and the Medical Board's opinion dated 13.07.2022, which have categorically held that the injuries suffered by the petitioner on the fateful day of 02.10.2016 are attributable to Government service and which further held that the petitioner was on bona fide government duty.

17. The Court of Inquiry was held specifically for determining this specific aspect as a fact finding under Rule 174(b) of BSF Rules and the order of the competent authority under Rule 175 of BSF Rules accepting the said report for this very purpose forms the basis of extension of financial benefits to the petitioner at the relevant time.

The denial of the disability pension by now disputing that the petitioner was not on bonafide government duty is inherently contradictory to the actions already taken by the respondents in favour of the petitioner past since 2017; and the respondents cannot be heard to take a different stand only for the purpose of denying disability pension.

No cogent reasons have been furnished by the PAD, BSF or the Government in the impugned order dated 29.01.2024 for recommending contrary to the aforementioned orders and findings of the competent authority as well as the Medical Board. The impugned order does not make any reference to the aforesaid orders and findings and therefore cannot be

sustained and is thus liable to be set aside.

18. In view of the aforesaid, the impugned order dated 29.01.2024 is hereby set aside. The respondents are directed to grant the benefits of disability pension to the petitioner under Rule 3 and Rule 3-A of the CCS (EOP) Rules, 1939 along with 9% interest from the date of his release i.e. 10.11.2022.

19. With the aforesaid directions, this petition stands allowed and disposed of. Pending applications, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 7, 2026/rr/hp/MG