
(2001) 02 P&H CK 0032

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10865 of 1998

Darshan Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Entitlement Rules for Casualty Pensionary Awards, 1982 — Rule 27
Pension Regulations for Army, 1961 — Regulation 173(A), 179

Citation : (2001) 02 P&H CK 0032

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Gurdev Singh, for the Appellant; Mr. S.K. Sharma, for the Respondent

Judgement

R.L. Anand, J.—Shri Darshan Singh petitioner has filed the present writ petition under Article 226 of the Constitution of India against the respondents and has prayed that a writ in the nature of the certiorari be issued and order dated 21.5.1998 Annexure P1 be quashed vide which his disability pension was rejected. It has been further prayed that directions be issued to the respondents to release the benefit of disability pension to him w.e.f. 18.1.1998.

2. Some facts can be noticed in the following manner :-

The case set up by the petitioner is that he was enrolled in the Army Medical Corps on 1.6.1969 and was boarded out from the military service on medical ground on 31.3.1993 and was placed in medical category "C (P)". He was granted the benefit of disability pension w.e.f. 1.4.1993 to 17.1.1998. He was examined by the Re-Survey Medical Board on 11.9.1997 and his disability was assessed at 40%. His case for disability pension was forwarded by respondent No. 3 to respondent No. 2 along with the medical documents and it was recommended that the petitioner should be given the benefit of disability pension by accepting his disability at 40%. The case was forwarded on 27.10.1997. Later

on, respondent No. 2 reduced the disability percentage of the petitioner less than 20% and rejected his case for disability pension. The petitioner is aggrieved by the said decision, hence the present writ petition.

3. Notice of the writ petition was given to the respondents. According to the respondents, since the disability of the petitioner has been reduced to less than 20% i.e. 11 to 14% by the CCDA (Pensions), Allahabad, therefore, he is not entitled to the benefit of disability pension.

4. I have heard Mr. Gurdev Singh, the learned counsel for the petitioner, Mr. S.K. Sharma, learned counsel for the respondents and with their assistance have gone through the record of the case.

5. The learned counsel for the respondents has vehemently argued that since the disability of the petitioner has been reduced to less than 20% by the CCDA (Pensions), Allahabad, therefore, the petitioner is not entitled to the benefit of disability pension. This contention of the learned counsel for the respondents is declined on the ground that before reducing the disability of the petitioner the CCDA (Pensions), Allahabad did not examine the petitioner and made up the mind while sitting on the table without physical examination of the petitioner. The petitioner was also not directed to appear before any medical board by the CCDA before rejecting his case.

In this view of the matter, the writ petition is allowed by setting aside the order dated 21.5.1998-, Annexure P1, and directions are given to the respondents to release the benefit of disability pension to the petitioner w.e.f. 18.1.1988 within three months from the receipt of the copy of order failing which the petitioner shall get interest @ 12% per annum. The petitioner shall appear before the Re-survey Medical Board as and when called upon by the respondent authorities. No order as to costs.

6. Petition allowed.