
(2004) 11 P&H CK 0070
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 197 of 1990

Ex. Sepoy Balkar Singh

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 29-11-2004

Acts Referred:

Pension Regulations for Army, 1961 — Rule 13

Citation : (2005) 1 CivCC 702 : (2005) 105 FLR 797 : (2005) 139 PLR 463

Hon'ble Judges : M.M. Aggarwal, J

Bench : Single Bench

Advocate : R.S. Randhawa, for the Appellant; Amit Jaswal, for Daya Chaudhary, Sr. Central Government Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

M.M. Aggarwal, J.—The petitioner, who joined the Army on June 12, 1972, had proceeded on two days casual leave on extreme compassionate grounds. The bus in which he was travelling met with an accident and the petitioner sustained injuries. He was evacuated to Military Hospital, Pathankot. On completion of his treatment, a medical board was held and petitioner was awarded medical category "C temporary and was discharged. Thereafter that medical category "C was made permanent. On June 4, 1980, the petitioner was discharged from service without assigning any reason under Army Rule 13.

2. The grievance of the petitioner is that he was not granted disability pension although, as per Rule 9 of the Leave Regulations for Army, he had been on casual leave and he was to be treated on duty and injuries sustained were attributable to service. The petitioner made representation and filed appeal to the Army Authorities. In spite of the representation made and appeal filed against the order of rejection of the disability pension, the same had not been allowed by the Army Authorities, which was illegal and unconstitutional. Therefore, the present petition had been filed for grant of disability pension from the date of discharge from service and all other due retiral benefits.

3. In the written statement filed on behalf of the respondents, all the facts had been admitted but it was averred that the petitioner was unwilling to continue service in the Army in permanent low medical category as per instructions and he had left the Army of his own although Army Authorities were ready to provide sheltered appointment. It was also averred that disability was not attributable to or aggravated by military service.

4. It has been held by a Division Bench of this Court reported as Chatroo Ram v. Secretary Defence and Ors. 1991 (1) S.L.R. 678 that an army man who while returning to his duty after availing the leave met with an accident and his right arm got dismembered, that disability was to be treated as attributable to military service and he was entitled to disability pension. In the present case, the petitioner was on two days casual leave and he while travelling by bus, met with an accident and sustained injuries and later on discharged, but he was refused disability pension.

5. Counsel for the respondents could not show any judgment or law taking a different view in the matter. He did not press the plea taken in the written statement that petitioner had left service of his own although Army authorities were ready to provide sheltered appointment.

6. Under these circumstances, this petition is allowed and it is directed that the petitioner shall be entitled to disability pension under the Pension Regulations for the Army from the date of discharge from service and all other consequential benefits. There shall be no order as to costs.