

(2006) 05 J&K CK 0037
In the Jammu And Kashmir High Court

Jagdish Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-05-2006

Acts Referred:

Citation : (2006) 2 JKJ 434

Hon'ble Judges : Nirmal Singh, J

Bench : Single Bench

Judgement

Nirmal Singh, J.—The facts which are not in dispute are as under:

Petitioner was enrolled in the army on 31st March' 79 and was allotted No. 13742577-N. After completion of basic military training, he was

posted to 8 JAK Rifles on 9th Feb' 80. He was invalided out of service on 20th Aug' 95, on medical grounds and was placed in medical category

EEE"". He was diagnosed as a case of Schizophrenia-295 and his disability was assessed at 70%. The petitioner applied for disability pension and

his case was forwarded to the office of Controller of Defence Accounts (Pension), Allahabad, for adjudication vide letter No. SR/13742577/DP

dated 24th Aug' 96. The said authority considered the claim of the petitioner for grant of disability pension and rejected the same on the ground

that the disability suffered by the petitioner is neither attributable to nor aggravated by army service. The petitioner preferred an appeal which was

forwarded to the Government of India, Ministry of Defence vide letter No. G3/95/114/9/91/11 dt. 5th Sept' 97. The appeal of the petitioner,

however, was also rejected and the petitioner was intimated about the same vide letter No. 7(2116)/97.D (Pen. A & AC) dated 3rd July' 2000.

2. In para 1 of the objections, it has been stated as under:

...As per medical opinion the petitioner emotionally went to the temple on 12 Nov 1994 and offered his tongue to Goddess Durga believing that

she will protect him. He was admitted to Military Hospital Bareilly on 19 Nov 1994 for psychiatric evaluation.

3. Again in para 2 of the objections, the stand taken by respondents is as under:

...Government of India, Ministry of Defence vide their letter No. 7(2116)/97.D (Pen. & A & AC) dated 03 Jul 2000 intimated directly to the

petitioner that his disability pension appeal has been rejected on account of which he was invalided out of service. The partial amputation of tongue

(self inflicted) by him with abnormal behaviour. There was no close time relationship between ID and any stressful factors/filed posting. Therefore,

his disability was regarded neither attributable to nor aggravated by military service by duly constituted medical board. Hence, he is not entitled for

disability pension under the rule.

4. Again in para 4(V) of the objections it has been stated that the ""partial amputation of tongue which was self inflicted by the petitioner by offering

to the Goddess with abnormal behaviour. Since the disability for which he has been invalided and not while performing military duty, the disability

of the petitioner is neither attributable nor aggravated to military service.

5. So far as the disease namely Schizophrenia from which the petitioner came to suffer is concerned, it has not been specifically denied that the

petitioner suffered this disease due to the stress and strain of army service.

6. Heard learned Counsel.

7. Petition is admitted and taken on board for final disposal.

8. The question as to whether the Schizophrenia could be said to be a disease caused due to stress and strain of military service was considered by

a Division Bench of this Court in the case of Balwant Singh v. Union of India and Ors. LPA (SW) 521/98, decided on 17th Oct' 99, and it was

held as under:

Is Schizophrenia a disease which is attributable only to genetic factors or psychological factors, viral infections and other factors which lead to

cerebral disease also responsible for the malady? The subject has been discussed in 'Principles and Practice of Medicine' edited by Christopher

R.W. Edwards, IAN A.D. Bouchier, Christopher Haslett, Edwin Chilvers,

Seventeenth Edition. It has been observed at page 997 that

psychological stress plays a part in precipitating episodes of the illness. It has been shown that schizophrenics are likely to have been exposed to a variety of adverse life events in the three weeks leading upto the onset of acute symptoms.

9. With regard to the viral infections, the observations are as under:

viral infections and obstetric complications have been implicated as casual factors, probably resulting in a neurodevelopmental disorder.

10. Neurotransmitter disturbance is also responsible for the malady. With regard to this, it has been observed as under:

The final pathway by which the various aetiological factors cause schizophrenia may be by interfering with neurotransmitter substances in the brain.

The most convincing hypothesis suggests that there is a functional overactivity in the dopaminergic neuronal systems in the mesolimbic and mesocortical areas.

11. Many environmental factors have been indicated but the three most consistently involved are loss of a parent in childhood, lack of social

support and recent adverse life events. This is indicated at page 1000 of the above treatise. Therefore, to say that the disease can never be

acquired or is not attributable to army service is a theory which would amount to laying down too wide a proposition.

12. It was further held as under:

In view of the above, to say that the appellant was suffering from a disease which could be inherited or was related to genetic factor, would not be

correct. If the disease can occur on account of viral infections or by stress and strains, then would it not be apt to hold that there is a direct relation

between the stress and strains of the army service and the ailment suffered by the appellant.

13. The appellant-petitioner in the above said case, suffering from Schizophrenia was ultimately held entitled to disability pension.

14. In Bhag Singh v. Union of India and Ors. 1996 (4) RSJ 55 the army personnel was invalidated out of service on medical grounds. He was

suffering from Schizophrenia. In the said case, following observations were made:

There is an Annexure with the Rules in Appendix II to Regulation 173 to Pension Regulations for the Army Part-I 1961 which deals with

classification of various diseases which are to be affected by climatic conditions, affected by stress and strain, affected by dietary compulsions,

training, marching etc. and normally affected by the service. In the list of diseases affected by stress and strain of military service, the disease

known as 'Psychosis' and "'Psychoneurosis' have been included. Needless to say these diseases related to mental disorder of an individual.

Schizophrenia, with which the petitioner was suffering from and which disease he developed during his military service can definitely be said to be

adversely affected by the stress and strains of the military service.

15. The army personnel in the above case was granted disability pension taking his disability at 45%.

16. Again in Harjit Singh v. Union of India 1998 (4) SCT 88 the individual suffering from "'Schizophrenia' was held entitled to disability pension.

Mere non-mentioning of the disease in Appendix II to Annexure III was held to be immaterial. It was held that the Appendix is not exhaustive. In

the aforesaid case, it was concluded that 'Schizophrenia' is a disease which can occur on account of stress and strain of army service.

17. The Karnataka High Court in the case of Ex. Naik M.S. Pemmaiah v. Union of India 1998 (3) SCT 755 allowed the disability pension where

the concerned employee was invalidated out of service on medical grounds as he was suffering from Schizophrenia. In the said case, the reasoning

given was that if a person was not suffering from the disease when he joined the service and when there was no entry that the person was suffering

from any disorder or disability, then it is to be presumed that the disease had occurred on account of stress and strain of army service and the same

is attributable to or aggravated by the military service.

18. In the instant case, the petitioner was enrolled on 31st March' 79. He was discharged from service on medical grounds on 20th Aug' 95. There

is nothing on the record to show that the petitioner was suffering from any ailment at the time of his entry into service or prior thereto.

19. In view of the above, I am of the opinion that Schizophrenia from which the petitioner suffered is a disease which was the result of stress and

strain of army service and the same is attributable to and aggravated by the said service. This Court in the case of Mohan Singh v. Union of India

and Ors. SWP No. 2693/01, decided on 17th Feb' 06 and Harbans Singh v. Union

of India and Ors. SWP No. 678/04, decided on 23rd March'

06, has taken the same view. For the reasons mentioned above, this petition is allowed. The petitioner is held entitled to disability pension.

Respondents shall release the disability pension in favour of the petitioner as per assessment made by the medical board, within a period of two

months from the date a copy of this order is made available to respondents by the petitioner. In case, the disability pension is not released in favour

of the petitioner within the period stipulated above, then in that eventuality, the petitioner would be entitled to interest at the rate 6% and this would

be payable by the person on whose account the delay occurs.

20. Writ petition disposed of accordingly.