

(2007) 04 DEL CK 0030

In the Delhi High Court

Case No : Writ Petition (C) No. 2083 of 2007

Mohinder Singh

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 20-04-2007

Acts Referred:

Army Rules, 1954 — Rule 13

Citation : (2007) 04 DEL CK 0030

Hon'ble Judges : T.S. Thakur, J;S.N. Aggarwal, J

Bench : Division Bench

Advocate : Harvinder Kaur and K.K. Sharma and Ramesh Chand, for the Appellant; Aakash Pratap, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—After more than 36 years of his discharge from Army Service, the petitioner has filed this writ petition seeking a writ of certiorari quashing the impugned orders dated 26.9.1970 (Annexure P-1) and order dated 13.6.1985 (Annexure P-5) passed by the respondents denying him disability pension. This writ petition is liable to be dismissed as barred by time and laches as there is unexplained delay of more than 36 years when the petitioner was invalidated out of service on medical ground that he was low medical category E. The petitioner was enrolled in Indian Army as Sepoy on 12.2.1963 and he was boarded out of military service on 26.9.1970 on medical ground that he was low medical category E as per opinion of the Medical Board. His discharge was under Rule 13 item III (iii) of Army Rules, 1954. After his discharge, the petitioner had filed the statutory petition before the concerned Army authorities for grant of disability pension to him but the same was finally rejected vide order dated 13.6.1995 passed by the Directorate General of Supply and Transport, Quartermaster General's Branch, Army Headquarters, New Delhi. The request of the petitioner for grant of disability pension was rejected by the Army Authorities on the ground that the disability suffered by the petitioner was neither attributable to

nor aggravated by military service and as such he was not entitled to grant of any disability pension. It seems that the petitioner remained contended after receiving the said order from the Army authorities rejecting his claim for grant of disability pension. The request for disability pension made by the petitioner was rejected way back in June"1995 and it seems that the petitioner remained contended with the reasons given in the impugned order dated 13.6.1995 for rejection of his claim for disability pension till he filed the present writ petition after about 12 years of final rejection of his said claim. The delay in filing of this writ petition is remained totally unexplained.

2. The learned Counsel for the petitioner had argued that the petitioner was not given any opportunity of hearing ever since he was discharged from Army service in 1971 till his claim was finally rejected by the Army authorities vide impugned order dated 13.6.1995. This contention has been noted by us only to be rejected. The question whether the alleged disability suffered by the petitioner was attributable to or aggravated by military service is a question of fact and, in our opinion, no further enquiry into this question can be directed at this distant point of time, particularly, when the petitioner stood already informed about 12 years back that the disability suffered by him was neither attributable to nor aggravated by military service.

3. For the foregoing reasons, we do not find any merit in this writ petition, which fails and is hereby dismissed in limine with no order as to costs.