
(2005) 04 P&H CK 0037
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6289 of 2005

Mul Singh (Ex. Sigmnn)

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 26-04-2005

Acts Referred:

Constitution of India, 1950 — Article 226
Pension Rules — Rule 132, 173

Citation : (2005) 141 PLR 110

Hon'ble Judges : S.S. Nijjar, J; M.M. Aggarwal, J

Bench : Division Bench

Advocate : Kirpal Singh Grewal, for the Appellant;

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—We have heard the learned counsel for the petitioner at length and perused the paper-book.

2. The petitioner was enrolled in Signal Corps of the Indian Army on 4.7.1941. According to the petitioner whilst he was serving in Burma in World War II, he suffered a head injury. On 13.7.5944, he was medically boarded out. For the first time on 11.3.1992, the petitioner put in a request for the grant of disability pension. This request was turned down on 31.8.1992. It was observed as follows:-

"1. Refer to your petition dated 3.8.1992.

2. It is seen from the Long Roll held in this Office that your all services and medical documents have been destroyed by burning after expiry of stipulated period of retention being non-pensionable documents as you were not granted any pension at the time of your discharge. Hence, this office is unable to take any action on your petition at this belated stage."

3. Thereafter, the petitioner waited for another six years and served a legal

notice some time in the year 1998. This legal notice of the petitioner was responded to by the respondents on 21.6.1999. It was observed as follows:-

"3. It is reiterated that as per Rule 132 of Pension Regulations 1961, Part-I, Personnel who rendered minimum 15 years service shall be entitled for grant of service pension and as per Rule 173 of Pension Regulation 1961, Part-I, personnel who have rendered minimum 10 years shall be eligible for disability elements. Since your client has served only for 3 years and his disability was not considered attributable to military service, he is not eligible for any type of pension."

4. Thereafter the petitioner again kept silent for more than five years and served another legal notice on 5.11.2004. By letter dated 18.12.2004, the petitioner was again informed that the complete service and medical documents has been destroyed by burning under the provisions of para 595 of Regulations for the Army, 1987 (Revised). The earlier reasons stated for rejection of the claim of the petitioner were reiterated. The petitioner thereafter sent a reminder on 20.1.2005. The respondents have responded to the reminder on 15.2.2005 and stated that it would not be possible to consider the claim of the petitioner, after an inordinate delay of 60 years.

5. Learned counsel for the petitioner has submitted that mere delay in approaching the Court for redressal of his grievances would not deprive the petitioner of the relief which is legally due. In support of the submission, the learned counsel has relied on a Division Bench judgment of this Court in the case of Sardara Singh v. Union of India 1992(6) S.L.R. 683. In the aforesaid case, the Division Bench observed that the petitioner had been regularly representing to the authorities. His claim had been declined only on the ground that the disability was not attributable to or aggravated by military service. On examination of the record, the Division Bench found the aforesaid reason to be false. In the present case, there is absolutely no explanation as to why the petitioner kept silent for a period of 48 years before making the first representation.

6. Mr. Grewal, learned counsel for the petitioner has submitted that the claim of the petitioner can be restricted from the date on which the petitioner made the first request for the grant of disability pension. We are unable to accept the aforesaid submission also. As noticed above, the petitioner was medically boarded out of Army on 13.7.1944. He made his first request for the grant of disability pension on 11.3.1992. The respondents sent a reply on 31.8.1992 giving cogent reasons as to why the pension could not be granted to the petitioner. It had been stated that all the service and medical documents of the petitioner had been destroyed by burning after expiry of stipulated period. Thereafter, the petitioner waited for over six years before sending another legal notice on 5.11.2004. Even this legal notice was replied by the respondents on 18.12.2004. The petitioner thereafter served a reminder on 20.1.2005 which was also responded to by the respondents on 15.2.2005. From the above, it becomes apparent that the petitioner has failed to exercise his rights on each and every

stage. The respondents have rightly observed that it would now be impossible to ascertain as to whether the petitioner would be entitled to any pensionary benefits. In our opinion, the present writ petition is clearly barred by inordinate delay and latches. The Supreme Court in the case of P.S. Sadasivaswamy Vs. State of Tamil Nadu, , has clearly held that an aggrieved party has to move the Court within a period of six months or at best within one year of the date when the cause of action accrues. The Supreme Court has observed as follows:-

"2... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Articles 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

7. Keeping in view the aforesaid law laid down by the Supreme Court, we hold that the present writ petition is barred by delay and latches. No relief can be granted to the petitioner.

In view of the above, the writ petition is dismissed.