
(2001) 02 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 14381 of 1998

Prem Kumar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 20-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Pension Regulations for Army, 1961 — Regulation 173

Citation : (2001) 02 P&H CK 0015

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

Bench : Single Bench

Advocate : Mr. R.S. Sangwan, for the Appellant; Mr. N.S. Boparai, for the Respondent

Judgement

R.L. Anand, J.—Prem Kumar-petitioner has filed this writ petition under Articles 226/227 of the Constitution of India and he prays that a writ of Mandamus be issued against the respondents commanding them to grant the benefit of disability element pension, The petitioner has further prayed for the issuance of a writ of Certiorari for the quashing of impugned orders Annexures P-4 and P-6 and the arrears of pension be paid to him along with interest at the rate of 18% per annum.

2 The case pleaded by the petitioner in short is that he was enrolled in the Army in Unit No. 102 on 13.5.1968. He was hale and healthy. He was examined by the Medical Board at the time of entry into military service and no adverse note of any kind was given about the health of the petitioner. He participated in the Indo-Pak war and on completion of 15 years of service, he was discharged from service on 31.5.1983. He was again re-employed on 1.5.1984 in the Defence Security Corps. In that department, he was also examined by the Medical Board. He was found fit. Then, he was sent to training and was given training for the Defence Security Corps. Thereafter, he was again discharged from the Defence Security Corps on 18.4.1994 on the ground that he was suffering disability. He

was placed in medical category "EEE". It was alleged by the petitioner that in the year 1990, when he was posted at Karki (Pune), he faced some trouble in the eyes due to environmental factor. He was under treatment in the Army Hospital. Then, he was operated upon and his left eye lost vision and there remained 1/4th vision to the right eye. The Medical Board assessed the disability of the petitioner at 60%. The petitioner has been given the benefit of service element but he has not been given the benefit of disability pension. Hence, the present writ petition.

3. Notice of the petition was given to the respondents and the short stand of the respondents is that the disease suffered by the petitioner is not attributable to the Army/Defence Service nor it has been aggravated during the course of service, therefore, the petitioner is not entitled to the benefit of disability pension.

4. I have heard Mr. R.S. Sangwan, Advocate, for the petitioner and Mr. N.S. Boparai, Advocate, for the respondents and with their assistance I have gone through the record of the case.

5. The contention raised by the learned counsel for the respondents is that it is proved on the record that on the first posting of the petitioner, he was found fit on 13.5.1968. Again, he was re-employed in the Defence Security Corps after he was discharged from the Army on 31.5.1983. Then, again, he was examined by the Medical Board. The Medical Board assessed his disability at 60%. There is no merit in the contention of the learned counsel for the respondents that the disease suffered by the petitioner is not attributable to the Army Service or that it has not been aggravated in the discharge of the duties of the petitioner. On account of the strenuous training and duties performed by the jawans these types of diseases invariably occur.

6. Therefore, I allow this writ petition by quashing the orders Annexures P-4 and P-6 and direct the respondents to release the benefit of disability pension to the petitioner within 3 months from the date of receipt of the copy of this order, failing which, the respondent-authorities shall also be liable to pay interest at the rate of 12% per annum. The petitioner shall, however, appear as and when called by the respondent-authorities.

7. Petition allowed.