

(1995) 07 KL CK 0020
In the High Court Of Kerala
Case No : O.P. No. 461 of 1991-E

Ramachandran Nair

APPELLANT

Vs

The Controller of Defence Accounts and Others

RESPONDENT

Date of Decision : 25-07-1995

Acts Referred:

Citation : (1995) 07 KL CK 0020

Hon'ble Judges : K. Sreedharan, J

Bench : Single Bench

Advocate : C.V. Vasudevan, for the Appellant; K.L. Joseph, A.C.G.S.C., for the Respondent

Judgement

K. Sreedharan, J.—Petitioner was enrolled in military on 21st July 1964 as a Vehicle Mechanic. His enrolment was after strenuous physical test and thorough medical examination. No defect, either physical or mental, was detected by the Experts including highly qualified doctors serving the military. On finding him medically fit to hold the post he was enrolled. Subsequently, he was assigned the rank of Craftman. He was posted in the field workshop of border area in Siliguri. Because of the strenuous nature of the work he developed anxiety. Subsequently, he was sent to Lucknow Military Hospital. After discharge from the hospital he was referred to a Medical Board. Medical Board found him not fit to continue in military service. He was placed in low medical category "EEE" by the Medical Board of Army Doctors held at Military Hospital, Allahabad on 17th June 1969 for the disease "anxiety state (300)". Consequently he was discharged from service on 14th September 1969 on the ground of medically unfit. He applied for disability pension because according to him, the medical ground on which he was discharged from service is attributable to the service in the military. By Ext. P-2 letter dated 26th June 1989 he was told that his claim for disability pension is inadmissible. The reason for that was stated as:

Invalidity disability Anxiety State from which you suffered during military service was neither attributable to nor aggravated by military service.

This stand taken by the Respondent is under challenge.

2. According to the Petitioner, he was discharged from service on medical grounds which is attributable to military service and so he is entitled to disability pension.

3. A detailed counter affidavit has been filed disputing the claim of the Petitioner. The main contention taken therein is that the Medical Board after thorough examination considered the Petitioner as unfit for further service and recommended that he should be placed in low medical category "EEE". The Medical Board proceedings in respect of the Petitioner were approved by ADME Headquarters on 1st July 1969. It is also stated that the Medical Board also declared that the Petitioner's disability "anxiety state (300)" is a constitutional disease and not connected with his service. So he is not entitled to disability pension.

4. Petitioner was physically and mentally found fit to enter military service. It was only on the basis of the medical examination and other tests he was enrolled on 21st July 1964. While he was working in the workshop in Siliguri he developed anxiety state. That state was the result, arisen from the service in military. If the illness has any causal connection with the service conditions, then the said disability should be considered as one attributable to military service. No Medical Board certified with reasons that the disability now found on the Petitioner was not attributable to or aggravated by military service. In such a situation I have no hesitation in holding that the disability which resulted in the discharge of the Petitioner from military service was one attributable to the military service. Consequently, he is entitled to the disability pension from the date of his discharge. This view is supported by the Bench decision of this Court in W.A. No. 594 of 1995.

5. In view of what has been stated above, I direct the Respondents to quantify the disability pension and other legally permissible monthly benefits payable to the Petitioner from 15th September 1969 and pay the same together with interest at 12 per cent per annum from the date on which the amounts became due. The entire amounts as computed till date, must be disbursed to the Petitioner within four months from the date of receipt of a copy of this judgment. In case the amount is not disbursed, the total amount due on such calculation should carry further interest at the rate of 18 per cent per annum from the date of expiry of the said four months till the date of payment. In case the higher rate of interest is found payable, after paying the amount to the Petitioner Government must find out the officers who are responsible in causing the delay in disbursing the amount, after a proper enquiry and realise the higher rate of interest portion from their salary. I also make it clear that the disability pension payable to the Petitioner for the future months should be paid regularly.

Original Petition is ordered in the above terms.