
(1999) 05 DEL CK 0122
In the Delhi High Court
Case No : CW.No.3145 of 1996

Surat Singh (Ex.Ct.)

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 17-05-1999

Acts Referred:

Citation : (1999) 4 AD 409 : (1999) 50 DRJ 351

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : Mr. V.P.Sharma, for the Appellant; Mr. Sanjeev Sachdeva, for the Respondent

Judgement

K. Ramamoorthy, J.—The petitioner has claimed disability pension. The petitioner was enrolled in the Central Reserve Police Force on the 10th of July, 1964. In the year 1967, the petitioner suffered from Myopia and on the 25th of March, 1967, he was discharged from service. Having kept quiet for a considerable time, he claimed disability pension.

2. On the 7th of January, 1994, the Addl. DIGP, Hyderabad-5, passed the following order:-

"Please refer to your application dated 4.11.93.

2. In this connection, it is submitted for your information that on checking of your service record it was seen that you were appointed in CRPF as temporary Constable w.e.f.10.7.1964 and after rendering 2 years 8 months 15 days service you were invalidated out w.e.f.25.3.67, consequence of "very high Myopia and incapacitated for further service". You were not confirmed in the force.

3. As per rules in force at that time you were not entitled for any Disability Pension etc. Hence it is not possible for the Department to take any action on your application under reference."

3. Challenging this, the petitioner has filed the writ petition.

4. The learned counsel for the petitioner, Mr. V. P. Sharma, submitted that the disability pension cannot be denied on the ground that the petitioner was not a confirmed employee in the Force. The learned counsel for the petitioner relied upon the judgment of the Bombay High Court in "Anant Rao Shakul Vs. Union of India" (Suit No.1161/81 decided on 24.1.85) and also judgment of this Court in "Sadhu Ram Vs. Union of India", (CW.349/91 decided on 2.12.1991). According to the learned counsel for the petitioner, Mr. V. P. Sharma, this view has been confirmed by the Supreme Court of India.

5. According to the learned counsel for the petitioner, Mr V.P .Sharma, at the time when the petitioner was enrolled in CRPF, his eye sight was normal, and, Therefore, there is a presumption that while in service he suffered from Myopia. That is deemed to have been cast on account of the service rendered by the petitioner.

6. The learned counsel for respondents, Mr. Sanjeev Sachdeva, submitted that the petitioner was only a temporary employee and was not a confirmed employee. The learned counsel for respondents Mr. Sanjeev Sachdeva, relied upon the judgment of the Supreme Court in Union of India (UOI) and Another Vs. Baljit Singh, . The learned counsel for the respondents, Mr. Sanjeev Sachdeva, referred to the Central Civil Services (Extraordinary Pension) Rules, wherein it is enumerated with reference to the diseases not normally affected by service. Myopia is one of the ailment not normally affected due to service in accordance with law.

7. The learned counsel for the respondents, Mr. Sanjeev Sachdeva, also submitted that the petitioner was guilty of laches.

8. Having regard to the facts and circumstances, no doubt the ground mentioned in the order dated 7.1.1994 the petitioner was not confirmed in service is not a valid reason, but that would not help the petitioner. The petitioner suffered Myopia owing to the health condition and, as mentioned in the Central Civil Service (Extraordinary Pension) Rules, it is a disease which is not normally affected by service. The Additional Deputy Inspector General, respondent No.4, in his order dated 7.1.1994, has also mentioned that as per the rules in force, the petitioner would not be entitled to disability pension. The petitioner was Youngman in 1964 when he was enrolled and he was only working as Constable in Andaman & Nikobar. Therefore, I am of the view that the respondents are right in taking the view that the ailment was not on account of service. Therefore, the petitioner is not entitled to disability pension. The writ petition is dismissed.

9. There shall be no order as to costs.