

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

96.

OA 629/2024 WITH MA 752/2024

Ex Sep Chandra Mohan Thakur Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. S S Sinha, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
16.10.2024

Pleadings in the matter are complete.

2. The applicant has invoked the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 and the prayer made in para 8 reads as under:

“(a) Quash the impugned letter No. JC-561944A/DP/NE dated 30.9.2023 and impugned letter No. dated 24.10.1986.

(b) Direct the respondents to grant disability pension to the applicant duly round off to 50% w.e.f. his date of discharge.

OR

(c) Direct respondents to grant invalid pension

(d) Direct respondent to pay the arrears of pension with interest 12% per annum.”

3. As far as prayer (a) and (b) are concerned, these pertain to quashing of the impugned letters dated 30th September, 2023 and 24th October, 1986 whereby the applicant has been denied disability pension for the disability of Essential Hypertension and the alternate prayer made is to grant invalid pension.

4. Notices were issued and from the counter affidavit filed, it is seen that seeking disability pension and challenging the order dated 24th October, 1986 by which disability pension was refused, the applicant had filed a Writ Petition in the High Court of Judicature at Patna vide CWJC No.9744/1999 and a Bench of the High Court on 8th August 2000 on merit dismissed the Writ Petition holding that the petitioner is not entitled to disability pension and the claim of the petitioner has no merit and it was accordingly dismissed. In spite of the claim of the applicant having been dismissed for grant of disability pension, the applicant through his counsel sent a legal notice to the respondents and in response to the same on 30th September, 2023 an order on merit dismissing his claim for disability pension was rejected by the Competent Authority and claiming the same to be the fresh cause of action, this OA was filed on 2nd February, 2024 and in para 6 of the application pertaining to details of the remedies exhausted, it is indicated that challenging the letter dated 24th October, 1986, the applicant has filed a Writ Petition which was dismissed for non prosecution on 8th August, 2000 and thereafter as his claim for grant of disability/invalid pension has been rejected vide letter No.JC-561944A/DP/NE dated 30th September, 2023 (**Annexure A-1**) he has approached this Tribunal.

5. In our considered view the applicant has not been fair to this Tribunal and with mala fide and deliberate intention has made incorrect pleadings on affidavit before this Tribunal. Not only the applicant has misused the process of law but has also made himself liable for prosecution in the matter of filing a false affidavit and making false pleadings without disclosing correct facts in the affidavit

filed for which proceedings under Section 340 of the Code of Criminal Procedure can be initiated against him. Even though the alternate prayer for invalid pension can be considered as the cause of action for the same accrued subsequent thereto but in all fairness the applicant should not have called in question the order dated 24th October, 1986 wherein his claim for disability pension was rejected. As this order had already attained finality after dismissal of the Writ Petition on 8th August, 2000 and the main prayer made for disability pension was barred by the principle of *res judicata*, we, in the facts and circumstances of the case, propose to take action against the applicant for having misused the process of law in the manner as indicated hereinabove.

6. We, therefore, issue notice to the applicant asking him to show cause as to why he should not be prosecuted and action taken against him for misusing the process of law. He is directed to appear personally before this Tribunal on 20th November, 2024 and submit his explanation to the aforesaid show cause notice.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT GEN C.P. MOHANTY]
MEMBER (A)**

/vks/