IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

TA No.571/2009

[WP (Civil) No.6706/2007 of Delhi High Court]

Ex. SWR Jagdish .....Petitioner

Versus

Union of India & Others .....Respondents

For petitioner: Sh. Randhir Singh Kalkal, Advocate.

For respondents: Sh. Ankur Chibber, Advocate with Capt Alifa Akbar.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.

ORDER
19.01.2010

1. The present petition was transferred from Hon'ble Delhi High Court to this Tribunal on its constitution.

2. Petitioner by this writ petition has prayed that the impugned letter dated 27.07.2001, 09.08.2001, 05.03.2003 and

05.04.2005 may be quashed and respondents may be directed to pay the disability pension to the petitioner @ 20% (Now 50%) w.e.f. 11.05.1999 along with interest @ 24% per annum.

3. The brief facts which are necessary for the disposal of the present petition are that the petitioner was recruited in Indian Army on 28.04.1994 and after completion of necessary training he was assigned to Armored Core. Petitioner was posted in 19 Armed Regiment at Firozpur, Punjab where he was fell sick and admitted in hospital Firozpur and sent to M.H. Jalandhar and treated there. The petitioner was placed in low medical category EE (P) with anxiety neurosis. After the discharge from hospital, the petitioner was given mess duty and during mess duty petitioner received injury on his right index finger and his right index finger was amputed and Medical Board placed him in medical category BEE (P). After that the petitioner was recommended for invaliding out by the Medical Board. The petitioner was invalided out from service on 28.04.1999.

4. The petitioner claimed for grant of disability pension but the same was refused. Ultimately having failed at all the levels of the

respondents, the petitioner approached before Hon'ble Delhi High Court and prayed for grant of benefit of disability pension by filing the present petition which was transferred to this Tribunal on its formation.

5. A written was filed by the respondents and respondents have taken the position that the petitioner had cut his finger at his own volition and therefore the injury is not attributable to Army service. A court of inquiry was also held about the injury to the index finger and in the findings of the court of inquiry it has been recorded that it is a self inflicted injury.

6. We have ourselves gone through the court of inquiry and statements of the petitioner and other persons recorded in the court of inquiry. In the court of inquiry it has been mentioned that he was directed to report at HQ. Squardon Langar and he went to the Langer. Statement of PW-2 says that he came to the Langar and asked for onion which was available in the ration store and he walked into the ration store and with the Matchet he cut his index finger and he came out and shouted for the help. Other persons came and he was admitted to hospital. Court of inquiry clearly records that this kind of injury was self inflicted by the petitioner.

7. Learned counsel for the petitioner strenuously urged before us that this kind of self inflicted injury was on account of Neurosis and otherwise nobody would voluntarily ampute his own finger. Therefore, learned counsel for the petitioner submitted that the amputation of the injury was on account of petitioner's suffering from Psychological Neurosis and this injury should be attributed to Army service.

8. We have bestowed best of our consideration to all the papers and original record which have been placed before us. From the findings of the court of inquiry it clearly transpires that petitioner in his statement has said that he was called for cutting the woods and not the vegetables but he does not say that he at all cut the vegetables and at that time he amputed his finger. But subsequently in his statement he said that he was summoned for cutting woods and he was fainted and admitted in the hospital. On the basis of his statement, court of inquiry found that amputation has not been on account of Army service it is self inflicted injury by the petitioner and it cannot be made attributable to Army service. We are of the opinion after going through the original record that petitioner is not entitled to any benefit on

account of his self inflicted injury being attributable to Army service. Consequently, no merit in the petition. Same is dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
January 19, 2010