

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT
NEW DELHI

T.A. No. 608/2009

[W.P. (C) No.4321/1999 of Delhi High Court]

Raj Pal Singh Rawat

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: Sh.Adarsh Ganesh, Advocate

For respondents: Ms.Jyoti Singh

CORAM:

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

ORDER
14.01.2010

1. The present petition has been transferred from
Hon'ble Delhi High Court to this Tribunal on its formation.

2. Petitioner by this writ petition has prayed that writ in
the nature of mandamus be issued directing the respondents to
pay a compensation of Rs.15 lacs for engaging the petitioner to

hazardous circumstances without taking adequate precautions by respondents and thus causing injuries to his body and limbs and consequent amputation of his two legs, right hand and loss of his testis and scrotum.

3. Brief facts which are relevant of disposal of present petition are that petitioner joined the Indian Navy as Shipwright Artificer Apprentice in the category of Sailor on 01.01.1994 for a period of 20 years ending on 31.12.2013. Unfortunately, an incident took place on 25.03.1997 when he was doing practical in gas welding along with 6-7 other trainees, the gas cylinder blasted and as a result of which he suffered grievous injuries on his body and limbs and his both legs and right hand were amputated and he also lost his left testis and scrotum. Board of Enquiry was held and it was found that accident occurred during Naval Service and due to faulty gas cylinder supplied by the respondents. The petitioner was sent for a rehabilitation course at Queen Mary's Technical Institute for disabled soldiers at Pune for one year course in computers. The petitioner completed one year diploma course in computes with distinction. Therefore, petitioner

grievance by this writ petition is that he has been deprived of his life and liberty which violates his Fundamental Rights under Article 21 of the Constitution of India. Consequently, petitioner has filed the present writ petition before the Hon'ble Delhi High Court which has been transferred to this Tribunal after formation of Armed Forces Tribunal for disposal.

4. During hearing in Delhi High Court, petitioner was directed to file additional affidavit detailing his loss and other benefits which he wants to seek. He filed the additional affidavit wherein he claim a sum of Rs.44,04,000/- giving details, cost of new artificial limbs of legs as Rs.2,50,000/-; maintenance cost of limbs for five years as Rs.80,000/-; cost of medicine etc. as Rs.15,000/-; cost of new electrically powered hand as Rs.3,10,000/-; cost of maintenance of electrically powered limbs (for five years) as Rs.1,20,000/-; cost of replacing artificial limb after every five years and maintenance and upkeep as Rs.25,00,000/-; expenses incurred in May 2001 and November 2003 for repairing artificial limbs as Rs.33,000/-, cost of modified two-wheeler for conveyance as Rs.46,000/-; vicarious liability of

the respondents as Rs.10,00,000/- and litigation costs as Rs.50,000/-. Therefore, in total Rs.44,04,000/- was worked out.

5. A reply to this additional affidavit was filed by the respondents and respondents have pointed out that the petitioner has been given complete treatment/fitment of artificial limbs obtained from M/s. Endolite India Limited at the cost of Rs.1,34,550/- and hand operated mechanised three wheeler at the cost of Rs.32,521/-. The petitioner was nominated for one year computer course at Queen Mary Technical Institute, Pune which the petitioner has already completed. The petitioner was awarded Navy pension i.e. service element @ Rs.1274/- p.m. w.e.f. 10.01.1999 for life, disability pension @ Rs.1550/- p.m. and constant attendant allowance @ Rs.660/- p.m. from 19th January for life. The petitioner has been paid invalidating gratuity of Rs.21,515/- and DCRG of Rs.10,785/-. He has been gainfully employed in the Naval Dockyard, Vishakhapatnam as regular Assistant Storekeeper in the pay scale of Rs.3050-4590 from November, 2000 onwards. He will retire in due course. Therefore, it is submitted that if all the compensation is calculated, it will far exceed the amount claimed by him. The learned counsel

for the petitioner has not denied the compensation granted to petitioner. Learned counsel for the petitioner submits that some ex-gratia amount should have been granted to him on account of physical and mental pain and agony. Therefore, learned counsel for the petitioner submits that some compensation may be granted for amputation of two legs including agony which he has suffered for such a long time. The submissions of learned counsel for the petitioner appears to be justified that some amount should have been granted to the petitioner as compensation over and above what beneficial steps have been taken by the respondents. Though the total claim of the petitioner was for a sum of Rs. 44 Lacs but if and all the perks taken together will far exceed more than he claimed. Be that, as it may, the fact remains that the petitioner shall suffer agony throughout his life. He should be given some solace in terms of money. Having regard to the facts and circumstances of the case, we direct that a sum of Rs. 2 Lacs may be given to the petitioner for the physical and mental sufferings. Accordingly we dispose of the petition with the direction to give a sum of Rs. 2 Lacs to the petitioner for the physical and mental agony which the petitioner had received on account of amputation of his two legs and other injuries. Learned

counsel for the respondents stated at bar that for maintenance of artificial limbs, Indian Navy Benevolent Association will take care. Therefore, repair part is concerned that respondents will take care.

6. Petition is accordingly disposed of with no order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
January 14, 2010.