

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

04.

O.A. No. 522 of 2010

Ex. GDSM Ravinder Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. S.R. Kalkal, Advocate.

For respondents: Sh. Ankur Chhibber, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER

01.09.2011

1. Petitioner by this petition has prayed that the impugned orders dated 9th October 2007, 6th August 2008 and 10th May 2010 may be quashed and the Respondents may be directed to pay the disability pension to the petitioner with effect from 1st February 2001 along with interest.

2. Petitioner was enrolled in Indian Army on 1st October 1990 and he was found medically fit by the Recruitment Medical Board in all respect. During 1998 petitioner fell ill and he was treated by the doctors of the Army Hospital and after some treatment petitioner was placed in low medical category CEE (P) with effect from September 1998 and further petitioner was placed in low medical category S1H1A3P1E1 with 30% disability for further two years. Petitioner was discharged from service with effect from 31st January 2001 under Army Rule 13(3), Item III (v) of the Army Rules, 1954 being undesirable soldier and the disability of petitioner was not taken in consideration at the time of his discharge from service. When the

petitioner was not granted disability pension he protested at all levels and he was driven to file this petition before us.

3. A reply was filed by the Respondents and the Respondents pointed out that the petitioner was awarded following red ink entries due to his military conduct:

"(i) 28 days rigorous imprisonment in Military Custody and 14 days pay fine under Section 39 (a) (absenting himself without leave) of the Army Act.

(ii) 28 days rigorous imprisonment in Military Custody and 14 days detention on 27th October 1998 under Section 63 (an act prejudicial to good order and military discipline) of the Army Act.

(iii) 07 days rigorous imprisonment in Military Custody on 21st August 1999 under Section 63 of the Army Act.

(iv) 21 days rigorous imprisonment in Military Custody on 7th July 2000 under Section 39(b) (without sufficient cause over staying leave granted to him) of the Army Act."

Thereafter petitioner was discharged from service as he had rendered 10 years and 38 days qualifying service and he was not granted Service Pension.

4. We have heard learned counsel for the parties and perused the records.

5. Learned counsel for the petitioner has submitted that since the petitioner was having disability more than 20% though no record has been placed to show that at the time of release i.e. discharge no certificate was given by the Medical Board that incumbent was suffering from 20% or 30% disability. However during the service he was assessed with 20% or 30% disability. But the question before us is that on what basis the petitioner can claim the benefit of disability pension. From the record it

transpires that nothing has been anywhere certified by the competent Medical Board that the petitioner is suffering from 20% or 30% disability. This is a simple case of discharge and as such there is no basis to grant any disability pension. Learned counsel for the petitioner has also referred to Regulations 173 and 173-A of the Pension Regulations for the Army 1961 and Regulation 4 of Entitlement Rules for Casualty Pensionary Awards, 1982. We have gone through all these Regulations and we are constrained to say that none of these Regulations come to the rescue of the petitioner. Basic thing is that petitioner has been discharged from service and there is no medical report that he had undergone a Medical Board and Medical Board has certified that he is suffering from 20% or 30% disability attributed or aggravated by Military Service. Hence, we do not find any merit in any of these arguments. Consequently, we do not find any merit in this petition and the same is dismissed with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
September 01, 2011