

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

07.

T.A.No. 503/10

In WRIT PETITION (CIVIL) No.10443/09

Jang Singh Verma

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. Vishwendra Verma, Advocate.

For respondents: Ms. Jagriti, Advocate.

CORAM:

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

ORDER
14.01.2011

1. This case has been transferred from Delhi High Court.
2. The petitioner by this petition has prayed that he may be granted disability pension in addition to his service element pension according to rule from the date of his invalidation i.e. 31.7.1997 along with the arrears.
3. The brief facts which are necessary for disposal of this petition are that Petitioner was enrolled as MER in Indian Navy on 12.7.1982. The petitioner met with an accident on 19.02.1990 in the Naval Housing Campus. It is specially mentioned on the MLC dated 20.2.1990 that the

petitioner was hit by the scooterist towards Circars Gate, Naval colony and thereafter he was admitted in unconscious condition in INS Kalyani. It is alleged that petitioner was living in the official campus and deems to be on 24 hour duty and petitioner was recommended for release from service for the following reason: "Unfit for driving and use of firearms". Petitioner was retired on expiry of engagement from the service on 31.07.1997 on the recommendation of the Medical Board and he was not granted any extension.

4. Petitioner filed the present writ petition before the Hon'ble Delhi High Court in 2009 praying for the disability pension on the ground that since he met with an accident in Naval Complex, therefore, he shall be deemed to be on duty at the relevant point of time.
5. The petition is contested by the respondent and respondent denied that he cannot be deemed to be on duty as he was not on the causal leave nor in case of discharge of his duty. He met with an accident in normal course and he was released after tenure of the service and he is already getting service element of pension.
6. We have heard learned counsel for the parties and perused the record. Learned counsel for the petitioner submits that he met with an accident in Naval campus, therefore, he shall be deemed to be in service for all practical purposes and he is entitled to benefit of disability pension as injury has been cause while discharge of service. In this connection,

learned counsel has invited our attention to the judgement passed by **High Court of Punjab & Haryana in the case of Sukhbir Singh Versus Union of India & Others (WP No.14761 of 1994 dated 25.2.2009.)** We have perused the judgement and after going through the judgement with great respect, we are of the opinion that this judgement is of no help to the petitioner. Petitioner was not on duty at the relevant point of time. He was on annual leave and the annual leave is not treated to be on duty and had it be a case of casual leave perhaps it could be treated on duty, but annual leave could not be treated to be on duty. Therefore, with greatest respect we don't think this judgement can be of any help to the petitioner.

2. Similarly, learned counsel has invited our attention to the judgement passed by **High Court of Jammu & Kashmir in the case of Sepoy Devinder Singh Vs. Union of India & Ors.** This was not the case of a person meeting with an accident, this was the case suffering from 'Neurosis'. Therefore, this judgement has no ^{relevance} ~~significant~~ so far as the controversy involved in the present case.
3. Our attention is also invited to the judgement of **Rajasthan High Court in the case of Ravindra Kumar Vs. Union of India.** In this case petitioner was on the casual leave when he met with an accident therefore, Court held relying on Judgement of **Hon'ble Apex Court in the case of Lance Dafadar Joginder Singh Vs. UOI & Ors. (1995 SCC 232)**

that petitioner is entitle to benefit of disability pension. Since the petitioner was on the casual leave and met with an accident, therefore, single judge has granted him the benefit of Pension.

4. So far as present case is concerned, the incumbent was neither on casual leave nor on annual leave, he was residing in Naval Campus and met with an accident. Therefore, by ^{any} ~~way~~ of stretch of imagination this cannot be said that petitioner was on service at the relevant time when he met with an accident. Therefore, the petitioner is not entitled to the disability pension.

5. In view of above, there is no merit in this case and same is dismissed.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
January 14, 2011.