IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

08.

O.A. No. 352 of 2011

Ex Nk Ram Phull   ....Petitioner

Versus

Union of India & Ors.   ....Respondents

For petitioner: Mr. Rohit Pratap proxy counsel for M.K. Gaur, Advocate.
For respondents: Ms. Jagriti Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
15.02.2012

1.   Petitioner by this petition has prayed that the orders dated 5th March 2011 and 25th October 2010 may be quashed and set aside and the cut off date mentioned in order dated 29th September 2009 be struck down being arbitrary and illegal and violative of the Article 14 of the Constitution of the India. It is further prayed that the Respondents may be directed to grant the disability pension to the Petitioner from the date of discharge i.e. 1st December 2001 as per relevant Regulations.

2.   Petitioner was enrolled in Indian Army on 24th March 1986 after careful medical examination by the recruiting medical authority Petitioner was found fit in all respects and while he was serving in Army he was discharged from service on 1st December 2001 at his own request on compassionate ground and he was granted service pension but he was not granted the disability pension. Petitioner came to know about a judgment of the Hon'ble Delhi High Court in the matter of **Ex. Nk. MS Narwal v. Union of India & Ors** wherein

the persons discharged at their own request were granted the disability pension if the medical board considered their disease attributable to or aggravated by military service. Therefore, Petitioner by the letter dated 3rd July 2008 approached the Respondents for grant of disability element and also requested to provide him the medical board proceedings. Then Petitioner made a request and he was informed by the Integrated HQ of MoD that personnel who are discharged prematurely at their own request are not eligible for grant of disability pension and the Petitioner was not provided the medical board proceedings. Thereafter Petitioner served a legal notice and filed the petition before us.

3.   No reply has been filed by the Respondents. However, learned counsel for the Respondents submitted that the Government is already processing such cases and has invited our attention to the order dated 3rd October 2011 relevant paras of which read as under:

> "3.   IHQ of MoD (Army) AG/PS-4, New Delhi letter No. B/39022/Misc/AG/PS-4(L)/BC dated 03 Aug 2010 has stipulated that, "it is clarified that as and when a pre-2006 retiree PBOR files a court case to claim disability pension which was denied to him merely because he had proceeded on pre-mature retirement, such cases will be immediately processed for Government sanction through respective line Directorates and not contested." As per ibid letter the Petitioner is entitled for disability pension as disability of the Petitioner had been viewed as attributable to but not aggravated by Military Service and assessed 20% for life by duly constituted medical board.

4.   In view of the above, the subject case is being forwarded to your IHQ for obtaining Government sanction in accordance with IHQ of MoD (Army) AG/PS-4, New Delhi letter No. B/39022/Misc/AG/PS-4(L)/BC dated 03 Aug 2010 instead of contesting the subject court case."

In aforesaid order it has been clearly mentioned that so far as PBOR is concerned it is clarified that as and when a pre-2006 retiree PBOR files a court case to claim disability pension which was denied to him merely because he had proceeded on pre-mature retirement, such cases will be immediately processed for Government sanction through respective line Directorates and not to be contested.   Therefore in light of this aforesaid communication nothing remains to be done in this matter.   We direct the authorities to process the case of the Petitioner in light of the order dated 3rd October 2011 and pass appropriate order as far as possible within three months. Petition is allowed. No order as to costs.

                                                  A.K. MATHUR
                                                  (Chairperson)

                                                  S.S. DHILLON
                                                  (Member)

New Delhi
February 15, 2012
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