

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

15.

O.A. No. 549 of 2011
With M.A. No. 509 of 2011

Nk Sunder Singh Rawat

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. K. Ramesh, Advocate.
For respondents: Ms. Barkha Babbar, Advocate.

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

ORDER
31.05.2012

1. Petitioner by this petition has prayed that the Respondents may be directed to quash and set aside ASC Records Bangalore letter dated 15th February 2008 and 2nd June 2009 and discharge order dated 16th August 2003 physically/notionally reinstate him back in military service and grant back wages in terms of all the inherent consequential benefits.
2. Petitioner was recruited way back on 27th October 1994. While service with 523 ASC Battalion he was admitted to Military Hospital Namkum and he was diagnosed as a case of Schizophrenia. Thereafter he was discharged by order dated 16th August 2003. By this petition he prays that Schizophrenia is a disease which is acquired during the service and as such he is entitled to disability pension.
3. The Respondents in their reply has pointed out that the Petitioner was diagnosed as a case of Schizophrenia and he was granted 56 days sick leave

from 22nd February 2003 to 18th April 2003. He rejoined from sick leave on 19th April 2003 and was admitted to Military Hospital Danapur. Thereafter he was invalided out of service on 16th August 2003 by the medical authority under Army Rule 13(3) III (iii). It is also pointed out that as per the findings of the Invaliding Medical Board, the Petitioner's disability was neither attributable to nor aggravated by military service. However, the percentage of disability was assessed at 30% for two years. The disability pension claim of the Petitioner was submitted to Pension Sanctioning Authority-PCDA(P) Allahabad for adjudication. The PCDA(P) Allahabad after due examination of the case had rejected the disability pension claim of the Petitioner vide letter dated 13th December 2004. The decision taken by the PCDA(P) Allahabad to reject the Petitioner's claim for disability pension was intimated to the Petitioner vide letter dated 6th January 2005 and he was also intimated that if he so desires, he could prefer an appeal against the decision of PCDA(P) Allahabad but he never filed any appeal. Learned counsel referred to Section 22 of the Armed Forces Tribunal Act and submitted that the petition is barred by time and belated one and that it cannot be entertained.

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

5. It is admitted position that Petitioner was discharged on 16th August 2003 and his case for disability pension was taken up and that was rejected and he was intimated by Respondents in 2004-05 and he did not further prosecute the matter. It is only in 2010 that for the first time the Petitioner agitated by filing this petition and, therefore, there is an inordinate delay of six years. The objection raised by Respondents appears to be justified. The

Petitioner has been discharged in 2003 and his disability pension has been decided in 2004-05 but he did not agitate the matter and now at this distant point of time he wants this Tribunal to reopen the issue. This cannot be permitted. Section 22 clearly mandates that such a belated petition cannot be entertained.

6. Consequently, we uphold the objection of the Respondents and dismiss the petition being belated.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
May 31, 2012
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