COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 189/2017 WITH MA 148/2017

Ex Rect Vishnu Pal Singh ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. V S Kadian, Advocate
For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

148/2017

Keeping in view the averments made in the application and in the light of the decision in ***Union of India and others*** *Vs.* ***Tarsem Singh*** (2009(1) AISLJ 371), the delay in filing the OA is condoned.

2. MA stands disposed of.

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3. Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of disability pension. However, at the time of final arguments, the applicant has restricted his prayer to grant of invalid pension.

4. The applicant was enrolled in the Indian Army on 02.03.1983 and invalided out from service on 21.06.1983. The applicant submits that for the purpose of invalidation, he is entitled to invalid pension. Per Contra, it is submitted by the respondents that the disability of the applicant was existing at the enrolment stage, and that his disability was held to be NANA with assessment of 20% for 2 years.

5. We find it pertinent to refer to the opinion of the Invalid medical Board, titled as "Particulars of the Recruits who have been invalided out of service within four months of service", and reproduced as under:

> *"The board is of opinion that:-*
> *a) The disability may have been present in a quiescent state at the time of enrollment and therefore could not be detected by the Recruiting Medical Officer.*
>
> *b) It might have manifested itself due to the stress and strain of training and therefore, was detected by the IO/Specialist when examining the recruit at a later date.*
>
> *c) It could have been a genuine error of observation in the border line case, due to paucity of time, limited facilities and the signs and symptoms of the disease being very meagre.*
>
> *d) The disability should have been detected by the Recruiting Medical Officer at the time of initial medical examination."*

6. On an examination of the aforesaid opinion of the Medical Board, we find that the disability may have been

present in a quiescent stage, and therefore, could not have been detected by the Recruiting Medical Officer, and the same could have been a genuine error of observation, being a borderline case, wherein due to paucity of time, and limited facilities, it is not feasible to conduct a thorough medical examination, and thus, had this been not the case, the disability could have been detected at the initial stage itself.

7. Not to forget, the applicant was detected to have been suffering from the disability within a month of his enrollment, and that the primary/initial medical examination carried out at the time of enrollment is of a routine nature, and is not exhaustive in nature so as to enable every medical detection with respect to an individual, and therefore, a single person being Recruiting Medical Officer cannot be said to have an expert in every dimension of medical field, and that the said disability might remain dormant usually but manifest during training period.

8. There is not an iota of doubt that the provision for invalid pension under the Pension Regulations is a beneficial provision for the service personnel of the armed forces, yet the same cannot be used as a tool to claim the benefits which do not accrue to the claimants without them rendering service enough

to have causal connection to the disabilities arising out of service. It is important to observe that the primary medical examination conducted at the time of enrollment is not a rigorous medical examination procedure as followed during the Cat/Re-Cat Medical Boards or for that matter RMB/IMB, and that any disability which can escape the initial medical examination cannot be used as a tool to claim invalid pension even without rendering service of even one month to showcase any relation of invalidation or any link whatsoever to the military service.

9. It is pertinent to observe that just for the sole purpose a disability escaped the detection of the Initial Medical Examination, which could have been a genuine error on the part of the Recruiting Medical Officer, does not ipso facto make an individual entitled for Invalid Pension therefore, cannot be held as qualified for invalid pension.

10. In view of the aforesaid analysis, we are of the opinion that the aforesaid case lacks merit and hence, is liable to be dismissed.

11. Consequently, the present OA 189/2017 is dismissed.

12. No order as to costs.

Pronounced in the open Court on this day of 29th February, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C. P. MOHANTY]
MEMBER (A)

Ps
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