

Ram Pal Singh

Vs.

Union of India and Others

Civil Appeal No. 910 of 1981

(D. A. Desai, A. Varadarajan, O. Chinnappa Reddy JJ)

05.10.1983

ORDER

1. This matter which came up as CMP No. 20963/1983, was moved by the appellant seeking some interim directions. Appeal was also placed on board for hearing and with consent of parties we proceed to dispose it of.
2. The appellant was employed in the Army and it is now not in dispute that he was injured in 1965 Indo-Pakistan Conflict. He suffered a disability which is now assessed at 20 per cent.
3. Regulation 173 of the Pension Regulations governing the Armed Forces personnel provides that unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided from service on account of disability which is attributable to or aggravated by military service and is assessed at 20 per cent or over.
4. Under the order of this Court the appellant was examined by Chairman of what we were informed was a Release Medical Board [Brig. A. S. Chahal, VSM, Consultant (Ortho) Surgery, Base Hospital, Delhi Cantt.] and copy of the report submitted to the Court reveals the following facts :
 - (a) From the medical records the disability of this ex-servicemen is multiple shell wounds both limbs sustained in September 1965 in Indo-Pak Conflict.

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 - (c) Disability was 20 per cent (twenty per cent).
5. Though the respondents were wobbling and equivocal in their approach on the question whether the appellant suffered injury in Indo-Pak Conflict meaning thereby while rendering active service on the war front, this is now concluded by reference to the records of medical report. The Army authorities were not well advised to take a stand which is not borne out by the record.
6. The second important fact that emerges from the report is that the disability is 20 per cent and, therefore, Regulation 173 is squarely attracted. The appellant is thus certainly entitled to disability pension.
7. Mr. Yogeshwar Prasad at one point was in a mood contend that the discharge of the appellant from Army Service was illegal and that therefore, he must be deemed to have continued in service and in that event the benefits to which he would have been entitled would be entirely different. We are not inclined to go into this question at this stage for the specific reason that Mr. Talukdar,

learned counsel for the respondents, on the other hand, contends that the appellant was not discharged on account of any disability but on account of being found to be an undesirable after repeated court martials were held against him on several occasions. It is no use moving backward by fifteen years and reopen closed chapter. That may even prove harmful to the appellant. Therefore, we are considering the question of awarding disability pension to the appellant.

8. Yesterday we directed the respondents appearing through learned counsel Shri Talukdar to compute the pension which the appellant would be entitled to receive commencing from April 1, 1968 on the basis that he is discharged on account of disability and the disability is assessed at 20 per cent. The pension in the initial years would be quite meagre as the chart shows. Pension was denied for a period of 15 years until the man knocked at the doors of Allahabad High Court and when he lost there, he came over to this Court. Counter-affidavit shows that things are not made easy for this injured Army man. These are the relevant factors which must govern the verdict in this case. They are that for a period of 15 years pension was denied to this low grade Army soldier to which he was legitimately entitled and that too on grounds wholly untenable. Further the petition of the appellant was resisted on grounds disclosing prevarications. Further relevant rules were not properly adhered to at the time of discharge. In determining the relief we propose to attach importance to these aspects.

9. The computation submitted by Mr. Talukdar shows a meagre amount that the appellant would be entitled to by way of arrears and the pension to which he would be entitled in future. The appellant would certainly be entitled to interest and some compensation for the harassment as also the costs of litigation. Having kept in view these relevant considerations we direct that the respondents shall pay a sum of Rs. 50,000 to the appellant within four weeks from today and he shall be paid future pension commencing from October 1, 1983 at the rate of Rs. 198 per month. In awarding lump sum amount of Rs. 50,000 we have taken into account pension arrears and all other computable benefits up to and inclusive of September 30, 1983 and no claim shall be made by the appellant and shall be entertained in this behalf. Appellant should be issued his Regular Pension Payment Order within the same period of 4 weeks so that he is in a position to receive pension which will fall due on November 1, 1983. We understand that pension of Rs. 198 is basic pension and if there is any interim relief and other benefits that can be made under judgment of this Court or otherwise under the liberalised pension rules that may come up in future, he would be entitled to the same. The amount of Rs. 50,000 shall be paid to the appellant by an 'Account Payee' cheque drawn in his name.

10. The appeal is disposed of accordingly.

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