Sukhwant Singh & Another

v.

Union of India through the Secretary, Ministry of Defence & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE AFTAB ALAM HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

Civil Appeal No. 1987 Of 2011 With No. 1988 Of 2011 | 13-03-2012

Civil Appeal No.1987 of 2011

1. The appellant - an army personnel, while on nine days' casual leave, suffered an injury in a scooter accident that rendered him unsuitable for any further military service. He was, therefore, discharged from service.

2. His claim for the disability element of pension was rejected by the concerned authorities holding that the injury suffered by him was not attributable to military service as stipulated in Regulation 173 of the Pension Regulations of Army, 1961.

3. The appellant filed a suit claiming disability pension. The trial court dismissed the suit. Against the judgment and order passed by the trial court, the appellant preferred an appeal, which was allowed and the suit filed by him was decreed. Against the judgment and decree passed by the appellate court, the Union of India preferred a second appeal before the Punjab and Haryana High Court.

4. During the pendency of the second appeal, the Armed Forces Tribunal came to be constituted and the second appeal was transferred to the Chandigarh Bench of the Armed Forces Tribunal where it was registered as T.A. No.775 of 2010; Union of India versus Sukhwant Singh.

Civil Appeal No.1988 of 2011

5. The appellant was on two months' annual leave when he met with an accident on April 18, 1994, in which his brother died and he himself received serious injuries that led to the amputation of his left leg above the knee. The Tribunal has noted that in his petition before the court the appellant did not disclose the circumstances in which the accident took place causing the injuries to him. His case also came to be transferred to the Chandigarh Bench of the Armed Forces Tribunal where it was registered as T.A. No.61 of 2010; Jagtar Singh versus Union of India.

6. Both the cases came to be heard by the Tribunal along with a number of analogous cases forming a batch. The Tribunal, by a long and well reasoned judgment, allowed the appeal of the Union of India in T.A. No.775 of 2010 and rejected the claim of the appellant Jagtar Singh in T.A. No.61 of 2010. In other words, in both cases, the disability pension claimed by the discharged army personnel was rejected on the ground that the respective injuries suffered by them were not attributable to military services.

7. Aggrieved by the judgment and order passed by the Tribunal, the claimants have come to this Court in appeal.

8. We have heard Mr. Bhim Sen Sehgal, learned counsel appearing for the appellants in both the appeals and we have also gone through the judgment of the Tribunal. The Tribunal has painstakingly examined a conspectus of decisions on the issue of disability pension and having carefully analyzed those decisions has summed up the legal position (at page 67 of the paper book) as under:

"To sum up in our view the following principles should be the guiding factors for deciding the question of attributability or aggravation, where the disability or fatality occurs, during the time the individual is on authorized leave of any kind.

a. The mere fact of a person being on 'duty' or otherwise, at the place of posting or on leave, is not the sole criteria for deciding attributability of disability/death.

There has to be a relevant and reasonable causal connection, howsoever remote, between the incident resulting in such disability/death and military service for it to be attributable. This conditionality applies even when a person is posted and present in his unit. It should similarly apply when he is on leave; notwithstanding both being considered as 'duty'.

b. If the injury suffered by the member of the Armed Force is the result of an act alien to the sphere of military service or in no way be connected to his being on duty as understood in the sense contemplated by Rule 12 of the Entitlement Rules 1982, it would not be legislative intention or nor to our mind would be permissible approach to generalize the statement that every injury suffered during such period of leave would necessarily be attributable.

c. The act, omission or commission which results in injury to the member of the force and consequent disability or fatality must relate to military service in some manner or the other, in other words, the act must flow as a matter of necessity from military service.

d. A person doing some act at home, which even remotely does not fall within the scope of his duties and functions as a Member of Force, nor is remotely connected with the functions of military service, cannot be termed as injury or disability attributable to military service. An accident or injury suffered by a member of the Armed Force must have some casual connection with military service and at least should arise from such activity of the member of the force as he is expected to maintain or do in his day-to-day life as a member of the force.

e. The hazards of Army service cannot be stretched to the extent of unlawful and entirely un-connected acts or omissions on the part of the member of the force even when he is on leave. A fine line of distinction has to be drawn between the matters connected, aggravated or attributable to military service, and the matter entirely alien to such service. What falls ex-facie in the domain of an entirely private act cannot be treated as legitimate basis for claiming the relief under these provisions. At best, the member of the force can claim disability pension if he suffers disability from an injury while on casual leave even if it arises from some negligence or misconduct on the part of the member of the force, so far it has some connection and nexus to the nature of the force.

At least remote attributability to service would be the condition precedent to claim under Rules 173.

The act of omission and commission on the part of the member of the force must satisfy the test of prudence, reasonableness and expected standards of behaviour.

f. The disability should not be the result of an accident which could be attributed to risk common to human existence in modern conditions in India, unless such risk is enhanced in kind or degree by nature, conditions, obligations or incidents of military service."

9. In our view, the Tribunal has rightly summed up the legal position on the issue of entitlement to disability pension resulting from any injuries, etc. and it has correctly held that in both cases there was no causal connection between the injuries suffered by the appellants and their service in the military and their cases were, therefore, clearly not covered by Regulation 173 of the Regulations.

10. The view taken by the Tribunal is also supported by a recent decision of this Court in Union of India & Ors. v. Jujhar Singh, (2011) 7 SCC 735.

11. For the reasons stated above, we find no merit in these civil appeals. These are, accordingly, dismissed.

12. No costs.