

Rajesh Kumar Singh Vs. Union of India (Uoi) and ors.

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Court : Allahabad

Decided On : Jan-31-2003

Reported in : 2003(2)AWC1659

Judge : A.N. Verma, J.

Acts : Army Pension Regulations - Regulation 173; Army Pension Rules - Rule 7;
[Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 564 (SS) of 1996

Appellant : Rajesh Kumar Singh

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : Syed Husain, Adv.

Advocate for Pet/Ap. : T.N. Saxena, Adv.

Disposition : Writ petition dismissed

Judgement :

A.N. Verma, J.

1. Through the instant writ petition the petitioner has assailed the order dated 13.1,1989 as contained in Annexure-1 whereby he was intimated that the Director General (Post) New Delhi has not agreed to grant him the Disability Pension as

well as orders dated 14.3.1990 and dated 15.3.1991 as contained in Annexures-2 and 3 whereby the appeal and the second appeal preferred by him against the order refusing him to grant disability pension have been rejected.

2. The controversy in the instant writ petition arises in the following circumstances :

'The petitioner who was under the employment of the Superintendent of Post Offices, Barabanki Division, volunteered himself for Army Postal Services. He appeared in the prescribed test for the Group Cadre of Volunteers for recruitment in Army Postal Services in April, 1995, and qualified the same and was declared successful. After having been selected, he was required to undergo Basic Military Training as required under the Rules. Thereafter with effect from 30.4.1984 he was recruited and enrolled in Army Postal Service. While positioned in field area in Jammu and Kashmir, the petitioner on 5.10.1985 sustained head injury with a rolling stone from a Hill with hit the Vehicle, tearing the tarpouline, in which he was seated. The petitioner was given necessary treatment at the Base Hospital, Srinagar and thereafter, he discharged his duties. The petitioner in 1989 was boarded out showing 40 percent disability. In 1988 the petitioner is said to have developed some mental ailment upon which he was recommended for mental examination and the concerned doctor diagnosed the disease as 'schizophrenia'. According to the petitioner the said disease developed on account of the incident which occurred in October, 1985 in Jammu and Kashmir and the same was attributable to Military Service.'

3. A detailed counter-affidavit has been filed on behalf of the opposite parties wherein it has been indicated that the petitioner sustained head injury when a rolling stone hit the vehicle. The petitioner was treated at 48 Base Hospital Uddhampur from 10th October, 1985 to 12th October, 1985. After two weeks of treatment the case of the petitioner was reviewed by the Medical Authorities who found him medically fit in all respects. The said injury according to the opposite parties was attributable to Military Service. However, the counter-affidavit further goes to show that the petitioner proceeded on annual leave with effect from 7th October, 1987 to 16th October, 1987 and when he came back to resume his

duties, unusual behaviour was noticed in him. The petitioner was, thereafter, referred for medical examination and Annexure-C.A.-6 is the report furnished on a case of psychiatric examination. The said report reveals that the individual has been mentally disturbed by the attitude of his family members. This is said to have been stated by him, as also his brother who accompanied him. It further shows that he could be retained in service after treatment. The petitioner was sent on sick leave with certain medicines prescribed. During the sick leave, the condition of the petitioner did not improve, therefore, his case was recommended before the Board. The Medical Board opined as follows ;

'In view of the psychotic nature of the illness and incomplete recovery, he is recommended to be invalidated out of service in Cat EEE (Psy). He would require a continued treatment under the supervision of the next of kin and a doctor.'

4. Thus, according to the opposite parties, the disease which the petitioner was suffering from was not attributable to Military Service but a mental disorder which was the result of family disturbance.

5. I have heard the learned counsel for the petitioner as well as the learned standing counsel Central Government appearing on behalf of opposite parties.

6. The counsel for the petitioner, with great vehemence, stressed that the disease which the petitioner was suffering from is as a result of the injury that he received in October, 1985, while posted in Jammu and Kashmir. According to him, because of the injuries his nerves were shattered and, therefore, he developed the said disease. As he was invalidated on the recommendation of the Medical Board, therefore, he was entitled for Disability Pension as permissible under Rules. In support of his arguments he has placed reliance upon *Subhash Chandra (Ex. Edr.) v. Union of India and Ors.*, 1996 (1) SLR 82 and *Mahaveer Singh Rawat. v. Union of India and Ors.*, 2001 (1) AWC 363 : 2001 (1) ESC 241 (All).

7. In order to properly appreciate the question involved in the instant case, Regulation 173 of the Pension Regulations of Army and Rule 7 (b) to Appendix-II to the Pension Regulations, requires to be noticed :

'Regulation 173.--Unless otherwise specifically provided, a disability pension may be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service and is assessed to 20 per cent or over.'

Rule 7 (b) to Appendix-II to the Pension Regulations runs as follows :

'Rule 7 (b).--A disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in service if no note of it was made at the time of the individual's acceptance for military service. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service.'

8. According to the above provisions, the Disability Pension can be awarded to an employee who has been invalidated if he suffered an injury attributable to Military Service or if he was suffering from the disease prior to his enrolment in service but the same aggravated due to stress and strain of the duties while in employment. In the case of Subhash Chandra (supra), the illness started while the petitioner in the said case was employed in forward area and, therefore, it was said that the same was attributable to military service and he was entitled for Disability Pension. Similarly in the case of Mahaveer Singh Rawat (supra), the employee was suffering from neurosis anxiety which was the direct and proximate cause of stress and strain suffered by him during his posting at that area. Therefore, in the circumstances of the case, it was held that the ailment was attributable to military service and, thus, he was entitled for Disability Pension.

9. In the instant case, the position was different. The Medical Board had opined that the disease which the petitioner had developed was not attributable to military service rather the same had developed consequent upon the family disturbances which occurred when he had proceeded on annual leave. After the injury which he sustained in October, 1985, the petitioner was treated at the concerned Base Hospital and he recovered and thereafter performed his normal duties. It was only in 1987-88 when he reported back from his annual leave, that unusual behaviour was noticed. The disablement is acceptable in service provided it is certified by a

proper medical authority that the disablement is on account of a wound, injury or a disease which is attributable to military service or even existed before or arose during the performance of military duties and has been precipitating/hastening on the onset of disability. This is not the case in the present petition. The Medical board does not opine that the ailment of the petitioner precipitated or hastened on account of the injury that he suffered in 1985 rather it is of the view, as is revealed from Annexure-C.A.-6, that the individual was mentally disturbed by the attitude of his family members. Further, the report of the Medical Board also does not indicate that the same precipitated on account of any injury.

10. The word 'schizophrenia' is a mental ailment which according to Webster's Third New International Dictionary, means a psychotic disorder of unknown complex etiology that is characterised by disturbance in thinking involving distortion of usual logical relations between ideas, a separation between intellect and emotions so that patient's feelings or their manifestations seem inappropriate to his life situation and a reduced tolerance for the stress of the interpersonal relations so that the patient retreats from social intercourse into his own fantasy life and commonly into delusions and hallucinations.

11. The injury caused in 1985 while the petitioner was posted in Jammu and Kashmir may be said to be attributable to military service but the mental ailment developed subsequently, which the Medical Board opined to be the result of family disturbance and strained relationship between the brothers while the petitioner was on annual leave, cannot in any eventuality be termed as attributable to military service. This Court in exercise of its powers under Article 226 of the [Constitution of India](#), cannot sit in judgment over the opinion expressed by the Expert Bodies. This being so, the report submitted by the Medical Board with regard to the ailment of the petitioner cannot be made subject to scrutiny and judicial review by this Court.

12. For the aforesaid reasons, no interference is called for with the orders contained in Annexures-1, 2 and 3.

13. The writ petition is accordingly dismissed but with no orders as to costs.