

Ram Kanwar Vs. Uoi and anr.

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Court : Delhi

Decided On : Mar-07-2011

Judge : Pradeep Nandrajog; Suresh Kait, Jj.

Appeal No. : W.P.(C) 13764/2006

Appellant : Ram Kanwar

Respondent : Uoi and anr.

Advocate for Def. : Ms.Barkha Babbar; Mr.Asit Tiwari, Adv.

Advocate for Pet/Ap. : Ms.Anju Jha, Adv.

Judgement :

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

1. Petitioner prays that the order dated 15.12.2005, based on the opinion of a Medical Board be declared null and void. Directions are sought by the petitioner to be reinstated in service. Further direction sought by the petitioner is that the respondents should be directed to ensure that petitioner serves in soft areas only.

2. A perusal of the pleadings in the writ petition would make it abundantly clear that the petitioner received a serious injury in his left knee while playing kabaddi

on 27.3.1995 at Matli, Uttarkashi. He was given treatment, but unfortunately the injury resulted in a permanent disablement of the left knee as also caused lumber spondylitis.

3. The petitioner was accommodated as far as possible due to being placed in lower medical category. Except for unavoidable purpose when on account of non-availability of staff, he was sent to a hard station, the petitioner was always kept in a soft area.

4. Matter lingered on till the year 2005.

5. On 17.09.2005, in his own handwriting and duly signed by him, the petitioner wrote a letter to the competent authority expressing a desire to be relieved from service.

6. On 3.8.2005, the petitioner once again wrote that he be discharged from service. He referred to his previous letter and expressed annoyance at receiving no answer on his request to be boarded out. He highlighted his left knee being rendered incapacitated and is suffering from lumber spondylitis.

7. Accepting the request of the petitioner and noting that he would be completing twenty years' of service which would have enabled him to receive pension, request of the petitioner was accepted and he was discharged from service on 15.12.2005. Needless to state, the order was on the request of the petitioner.

8. It may be noted that though the petitioner was liable to be discharged from service in March 1995 when he suffered the disability, the department more than accommodated him.

9. Thus, the stand taken by the petitioner that he was harassed and was unnecessarily thrown out of service is absolutely incorrect.

10. The petitioner cannot question the opinion of the Medical Board, before which board the petitioner appeared on 29.9.2005, for the reason we note that in his application dated 23.8.2005, the petitioner has himself written that his left knee was rendered virtually immobile and that he was suffering from spondylitis.

11. We may note that the petitioner has good knowledge of the human body and its infirmities evidenced by the fact that he was appointed as H.C.(Medic).

12. The petitioner's letter dated 23.8.2005 itself shows that the petitioner had got himself examined at a private hospital where it was opined that the left knee of the petitioner was permanently disabled and that he was suffering from spondylitis. This very infirmity has been noted by the Board. We highlight once again that the petitioner himself volunteered to be boarded out on medical grounds. He himself sought the constitution of a Medical Board. The Medical Board gave an opinion in harmony with the infirmity claim by the petitioner in his letter dated 23.8.2005.

13. Before formally dismissing the writ petition we may note that we had asked learned counsel for the respondent as to how much pension is being released to the petitioner. We were informed that over 20 letters have been written to the petitioner commencing from the first letter written on 26.12.2005 and the last on 13.10.2010, requiring petitioner to fill up the necessary papers to enable his pension being dispersed. All the letters have been refused to be accepted by the petitioner. He has not signed the requisite forms to enable the department to release pension.

14. We dismiss the writ petition and advise the petitioner to fill up the necessary papers and receive the pension which has to be paid to him.

15. No costs.

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