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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
...

O.A. No.2000 of 1995

Dated New Delhi, this 18th day of March, 1996.

HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

Nathi Ram Bhardwaj
S/o Late Shri Mehtab Singh
R/o 821, Mehtab Bhawan
Chirag Delhi
DELHI-110017.

... Applicant

By Advocate: Ms Nitya Ramakrishna

versus

1. Union of India, through
Secretary
Department of Finances and Pensions
Ministry of Defence
South Block
NEW DELHI.

2. Additional Director General
Army Postal Services
Quarter Master General's Branch
Army Headquarters
R. K. Puram
NEW DELHI.

3. Senior Postmaster
Parliament Street
Head Post Office
NEW DELHI-110001.

... Respondents

By Advocate: Shri M. K. Gupta

O R D E R (Oral)

Mr K. Muthukumar, M(A)

Heard the learned counsel for the parties.

The matter involved in this application, being within a short compass, is disposed of at the stage of admission itself.

The applicant who was working in the Army Postal service on deputation as a Class-IV employee,

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was awarded disability pension in accordance with the Army Pension Regulations taking into account the extent of disability that he had suffered, after due examination by a medical board. This disability pension was sanctioned with effect from 1st January, 1969 treating the disability at 40% and he was sanctioned disability pension at Rs.14 per month. Subsequently, the above disability was modified to 20% and pension was reduced to Rs.7 per month. The pensioner continued to draw the disability pension till September 1983 i.e., after lapse of more than ten years when according to the provisions of the Army Pension Regulations he was put through resurvey medical examination for his disability and he was again declared to have disability to the extent of 20%. While granting this, it was stated by the medical board that the disability will have to be taken for a period of two years and therefore the applicant was again put through another medical examination held on 15th November, 1983 when the resurvey medical board had assessed that he suffered 20% disability and the duration of assessment was indicated as 'permanent'. By the impugned orders of the respondents dated 22nd December, 1994 and 14th June, 1995, the respondents have stopped the disability pension on the ground that the last medical board held

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on 15th November, 1992 assessed the applicant's disability to less than 20% (i.e. 15-19%) and as such he was not considered for disability pension under the Army Pension Regulations. Aggrieved by these orders, the applicant has filed this O.A. praying for quashing of the impugned orders discontinuing the disability pension and for directing the respondents for payment of disability pension on the basis of assessment of 20% disability and grant the applicant such arrears of disability pension as may accrue with interest.

The learned counsel for the applicant argued that in terms of the Army Pension Regulations the applicant had been put through a resurvey medical board as early as in 1983 and as since then there had been no change in the extent of disability. In terms of Army Pension Regulations, 185(b), the pensioner should be brought before a resurvey medical board and in the event of the disability still being recorded by the pension sanctioning authority as incapable of improvement, his pension may be sanctioned for life. Taking this argument into account, on the last date of hearing, the respondents were directed to produce the recommendation of the medical board which examined the applicant for determination of his disability on 7.1.83. The learned counsel for the respondents today produced for perusal of the Bench the Medical Branch Proceedings dated 7.1.83 and in page-5 of the said

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report, it is stated that the applicant is found suffering from bronchial asthma and assessment of 20% disability has been indicated and duration of assessment is shown to be permanent. The learned counsel for the respondents, however, argued that there is no specific indication that his disability is for life and therefore as per the Army Pension Regulations, there is no clear indication of the medical board that the disability is incapable of improvement. He also argued that the applicant was further put to resurvey medical examination on 5.11.92 in which the medical board had come to the conclusion that the applicant had only 15-19% disability. In view of these, he argued that the respondents have not taken any arbitrary action in discontinuing the disability pension.

I have heard the learned counsel for the parties and also perused the records. As per the Regulations what requires to be done is that after the disablement had remained unmodified for a period of ten years, the pensioner was to be brought before the resurvey medical board. This was done in 1983 by which the medical board has assessed the duration of disability to be 'permanent'. This should be sufficient to establish the fact that the disability

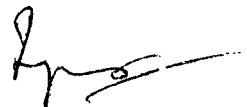
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is incapable of improvement in terms of the aforesaid Regulations.

In the light of the above, the application is allowed. The impugned orders dated 22.12.94 and 14.6.95 are quashed and the respondents are directed to restore the disability pension and pay arrears of the disability pension from the date of discontinuance after calculating the arrears payable to the applicant, within a period of three months from the date of receipt of a copy of this order.

With the above directions, this O.A. is finally disposed of; without any order as to costs.


(K. Muthukumar)
Member(A)

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