

(2010) 09 P&H CK 0294

High Court Of Punjab And Haryana At Chandigarh

Case No: L.P.A. No. 1278 of 2010

Union of India (UOI) and Others

APPELLANT

Vs

Ashwani Kumar Minhas

RESPONDENT

Date of Decision: Sept. 30, 2010

Hon'ble Judges: Ranjan Gogoi, J; Rajan Gupta, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Ranjan Gogoi, J.

Heard.

2. This appeal is directed against the order dated 22.10.2009, passed by the learned Single Judge of this Court whereby the writ petition filed by the Respondent/writ Petitioner claiming disability pension has been allowed. The writ petition, it may be noticed, was disposed of at the motion stage after hearing the learned Central Government Counsel.

3. The brief facts may be noted at the outset. The Respondent/writ Petitioner was enrolled in the Indian Army sometime in the year 1994. On the recommendation of the Medical Board, he was invalidated out of service in the year 2007 on the ground that he was suffering from Affective Disorder (Mania). As the claim of disability pension made by the Respondent/writ Petitioner was rejected on the ground that the disability in question is not attributable or aggravated by military service the writ petition in question was filed.

4. Learned Single Judge hearing the writ petition took note of the fact that at the time of the Respondent/writ Petitioner's entry into Army service he was found to be medically fit. Taking into account the fact that Army service entail stress and strain, particularly, when the personnel are deployed in the field area and also while engaged in law order duties, the learned Single Judge after taking note of several decisions of this Court rendered in like cases thought it proper to pass the

impugned order.

5. Learned Counsel for the Appellants has not disputed the fact that at the time of his entry into military service, the Respondent/writ Petitioner did not suffer from the particular disorder/disability that was recorded by the Medical Board. It is also not the contention of the learned Counsel for the Appellants that the disease/disability in question is a constitutional one. Learned Counsel for the Appellants has placed before the Court, the report of the Medical Board which is to the following effect:

Due to stress and strain of military service psychiatric illness arising as a result of indigenous (genetic/biologic) factors because individual had no aggravating/attributable factors as individual was posted in peace area during onset of illness.

6. The report of the Medical Board indicates that at the time of the onset of the disability, the Respondent/writ Petitioner was posted in a peace area. The above fact does not rule out the posting of the Respondent/writ Petitioner in operational areas during his long tenure of 13 years, a fact which has been admitted by the learned Counsel who has stated that the Respondent/writ Petitioner was, indeed, engaged in operation "Rakshak". If the Respondent/writ Petitioner was not suffering from any mental disability at the time of his entry into military service and had developed the same in the course of Army service, the natural and logical inference that must be drawn is that the said disorder/disability in question is on account of military service in which event the entitlement of the Respondent/writ Petitioner to disability pension has to be accepted.

7. For the aforesaid reasons, we do not find any infirmity in the order of the learned Single Judge to order admission of this Letters Patent Appeal.

8. Letters Patent Appeal is accordingly dismissed.