Union Of India & Anr vs Talwinder Singh on 20 April, 2012

Equivalent citations: AIR 2012 SUPREME COURT 2725, 2012 (5) SCC 480, 2012 AIR SCW 2817, 2012 LAB. I. C. 2264, (2012) 4 KCCR 206, (2012) 114 CUT LT 1145, (2012) 06 ADJ 13 (SC), (2012) 3 JCR 39 (SC), 2012 (2) SERVLJ 295 SC, 2012 (5) SCALE 1, 2012 (06) ADJ 13 NOC, (2012) 133 FACLR 813, (2012) 2 CURLR 277, (2012) 5 SCALE 1, (2012) 5 SERVLR 120, (2012) 3 ESC 281, (2012) 2 ESC 266, (2012) 4 ALL WC 3448

Bench: Jagdish Singh Khehar, B.S. Chauhan

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3686 OF 2012
(Arising out of SLP (C) No. 6629 of 2011)

Union of India & Anr. ....Appellants

Versus

Talwinder Singh
....Respondent

O R D E R

1. Leave granted.

The present appeal has been filed against the judgment and order dated 11.11.2009 passed by the High Court of Punjab & Haryana at Chandigarh in RSA No.599 of 2009 by which the High Court has reversed the judgment and order of the Trial Court as well as the First Appellate Court and granted the relief of disability pension to the respondent.

2. Facts and circumstances giving rise to this appeal are that the respondent was enrolled in the Infantry (Sikh Regiment) on 23.5.1987. He proceeded on annual leave on 31.3.1990 for a period of two months to his home town. During his leave period, the respondent suffered injuries being hit by a small wooden piece “Gulli” in the play of children and thus, his left eye was seriously damaged. He was admitted to Command Hospital, Chandimandir and remained there from 1.4.1990 to 25.4.1990. The respondent was operated upon twice and, subsequently, was discharged giving him sick leave from 26.4.1990 to 6.6.1990 and was placed in low medical category ‘BEE’ (permanent).

3. The investigation/enquiry was conducted by Army Authorities and the court of inquiry vide order dated 13.7.1990 came to the conclusion that injuries sustained by the respondent were not attributable to military service. The respondent was kept in sheltered appointment upto 31.5.2003 for giving him an opportunity to complete his terms of engagement. The respondent was examined by the Release Medical Board (RMB) on 14.2.2003 for assessment of degree and attributability/aggravation factors of the disability 'Perforating Injury Left Eye' and it came to the conclusion that disability was 30% for life, however, the Board further declared that the said disability was neither attributable to nor aggravated by military service. In view thereof, the claim of the respondent for disability pension was rejected by the competent authority vide order dated 7.8.2003.

4. The respondent filed Suit No.312 of 2004 before Civil Judge (Senior Division) Sangrur, Punjab, seeking the relief of disability pension which was dismissed vide judgment and decree dated 25.9.2006. Aggrieved, respondent preferred Civil Appeal No.150 of 2006 which was dismissed by the learned Additional District Judge, Sangrur vide judgment and decree dated 2.9.2008. Respondent, not being satisfied, preferred RSA No.599 of 2009 before the High Court of Punjab & Haryana challenging the aforesaid judgments and decree. Learned Single Judge reversed the concurrent finding of facts by two courts below and allowed the appeal decreeing the suit issuing direction to the appellants/ defendants to release payment of disability pension alongwith 8% interest per annum from 31.5.2003, within a period of 3 months.

Hence, this appeal.

5. Shri H.P. Raval, learned ASG appearing on behalf of Union of India, has submitted that the High Court committed an error allowing the appeal and reversing the judgments and decree of the courts below as the case of the respondent could not fall within the provisions of paragraph 179 of the Pension Regulations of the Army, 1961, Part-I, (herein after called the `Regulations') as well as the findings and opinion of the Medical Board, a finding that the injury suffered by the respondent could neither be attributable to, nor could be aggravated by the military service. Therefore, the appeal deserves to be allowed. The judgment and decree of the High Court is liable to be set aside.

6. On the contrary, Shri Vivek Gupta, learned counsel appearing for the respondent, has contended that the High Court has decided the case in correct perspective and correctly interpreted the statutory provisions and therefore, no interference is required. The appeal lacks merit and is liable to be dismissed.

7. We have considered the rival submissions made by learned counsel for the parties and perused the record.

The sole question involved in this appeal is that if a person enrolled in Army suffers from injury at his home when on leave, whether such injury can be held to be attributable to or aggravated by the military service.

The issue involved herein is no more res integra. It is not in dispute that in case the injury suffered by military personnel is attributable to or aggravated by military service after discharge, he becomes entitled for disability pension. It is also a settled legal proposition that opinion of the Medical Board should be given primacy in deciding cases of disability pension and the court should not grant such pension brushing aside the opinion of the Medical Board. (See: Union of India & Anr. v. Baljit Singh, (1996) 11 SCC 315; Union of India & Ors. v. Dhir Singh China, Colonel (Retd.), (2003) 2 SCC 382; Controller of Defence Accounts (Pension) & Ors. v. S. Balachandran Nair, AIR 2005 SC 4391; Union of India & Ors. v. Keshar Singh, (2007) 12 SCC 675; and Union of India & Ors. v. Surinder Singh Rathore, (2008) 5 SCC 747).

8. In The Secretary & Curator, Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity & Ors., AIR 2010 SC 1285, this Court while placing reliance upon a large number of earlier judgments including Constitution Bench judgment in The University of Mysore v. C.D. Govinda Rao & Anr., AIR 1965 SC 491, held that ordinarily, the court should not interfere with the order based on opinion of experts on the subject. It would be safe for the courts to leave the decision to experts who are more familiar with the problems they face than the courts generally can be.

9. This Court recently decided an identical case in Union of India & Ors. v. Jujhar Singh, AIR 2011 SC 2598, and after reconsidering a large number of earlier judgments including Secretary, Ministry of Defence & Ors. v. A.V. Damodaran (dead) through L.Rs. & Ors., (2009) 9 SCC 140; Baljit Singh's (supra); Regional Director, ESI Corporation & Anr. v. Francis De Costa & Anr., AIR 1997 SC 432, came to the conclusion that in view of Regulation 179, a discharged person can be granted disability pension only if the disability is attributable to or aggravated by military service and such a finding has been recorded by Service Medical Authorities. In case the Medical Authorities records the specific finding to the effect that disability was neither attributable to nor aggravated by the military service, the court should not ignore such a finding for the reason that Medical Board is specialised authority composed of expert medical doctors and it is a final authority to give opinion regarding attributability and aggravation of the disability due to the military service and the conditions of service resulting in the disablement of the individual. A person claiming disability pension must be able to show a reasonable nexus between the act, omission or commission resulting in an injury to the person and the normal expected standard of duties and way of life expected from such person. As the military personnel sustained disability when he was on an annual leave that too at his home town in a road accident, it could not be held that the injuries could be attributable to or aggravated by military service. Such a person would not be entitled to disability pension.

10. This view stands fully fortified by the earlier judgment of this Court in Secretary, Ministry of Defence & Ors. v. Ajit Singh, (2009) 7 SCC 328.

11. The instant case is squarely covered by the ratio of the aforesaid judgment in Jujhar Singh (supra).

We are of the view that the opinion of the Medical Board which is an expert body must be given due weight, value and credence. Person claiming disability pension must establish that the injury suffered by him bears a causal connection with military service. In the instant case, as the injury

suffered by the respondent could not be attributable to or aggravated by the military service he is not entitled for disability pension.

12. In view of the above, the appeal is allowed. The judgment and order of the High Court dated 11.11.2009 passed in R.S.A. No. 499 of 2009 is set aside and the judgment and order of the Trial Court and that of First Appellate Court are restored. No order as to costs.

.....J. (Dr. B.S. CHAUHAN) .....J. (JAGDISH SINGH KHEHAR) New Delhi, April 20, 2012.