

**ARMED FORCES TRIBUNAL CHANDIGARH BENCH AT  
CHANDIMANDIR**

**O. A. No. 10 of 2010**

**Harpreet Singh**

**.....Petitioner**

**Vs**

**U.O.I. & Ors.**

**..... Respondents**

**ORDER  
25-10-2010**

**Coram: Justice Ghanshyam Prasad, Judicial Member  
Lt Gen H.S. Panag (Retd), Administrative Member.**

For the petitioner (s) : Mr. Navdeep Singh, Advocate.

For the respondent (s) : Ms. Geeta Singhwal, CGC.

**JUSTICE GHANSHYAM PRASAD:**

This is an application under Section 14 of the Army Forces Tribunal Act, 2007 for grant of disability pension.

The petitioner joined the Indian Army on 07-07-2001 in a medically fit condition. However, in the year 2004 he developed “**BIPOLAR AFFECTIVE DISORDER/PSYCHOSIS**” as a result of stress and strain of the military service. The petitioner’s unit initiated proceedings for his discharge on medical grounds. Ultimately, the Commanding Officer of the petitioner declared that his disability was

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aggravated by the military service. However, the Invaliding Medical Board, which was held on 20-01-2005, declared the petitioner's disability as constitutional and it was neither attributable to nor aggravated by the military service. Accordingly, his prayer for grant of disability pension was rejected upto the Ministry of Defence. Hence, this application.

Reply has been filed on behalf of the respondents.

On perusal of the record, it appears that vide order dated 30-04-2010 in view of the discrepancy in the Medical Board opinion, it was directed by this Bench that a fresh Medical Board be held to diagnose, assess the disability and its attributability within four months. In the light of that direction a fresh Medical Board was held on 28-08-2010.

The opinion of the Medical Board is on the record. According to the opinion, the onset of the symptoms of disease occurred within eight months of the posting out from the field area and hence no aggravation can be accorded. However, the Medical Board found the disability of the petitioner as 60% for life.

In course of the submissions, it is submitted by the learned counsel for the petitioner that the onset of the disease occurred while the petitioner was in service. According to Annexure III to Appendix II of Entitlement Rules, 1982, such diseases occur as a result of stress and strain of military service.

It is further submitted that the opinion of the Medical Board given in Part-V of the Medical Board proceedings is not correct. Now the minimum period for posting out from field area for considering the onset

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of the disease as aggravated by military service has totally been abrogated. The learned counsel for the petitioner has relied upon a decision of the Punjab and Haryana High Court dated 11-02-2009 rendered in RSA No. 714 of 2009 (Union of India vs. Mukhtiar Singh) in order to show that it is settled law that when on account of arduous duties, which are supposed to be performed by the Jawans while in Army Service, whether in plains or on the mountains, types of diseases suffered by the petitioner invariably occur which are attributed to or aggravated by military service, then the person is entitled to disability pension. In that very decision, reliance has also been placed upon a decision in the case of **Harjap Singh vs. Union of India, 2000 (4) SCT 896**, wherein it has been held by the High Court that the army personnel found suffering from fits and other disability declared was Neurosis Hysterical Reaction, was entitled to the benefit of disability pension.

On the other hand, learned counsel for the respondents opposed the submissions of the learned counsel for the petitioner and submitted that as the onset of the disease was neither attributable to nor aggravated as a result of military service, hence the petitioner is not entitled to get disability pension.

We considered the submissions of the learned counsel for both the parties as also the opinion of the Medical Board as well as the aforesaid decisions of the Punjab and Haryana High Court.

In the facts and circumstances of the case as well as the legal position and the provisions contained in Entitlement Rules, 1982,

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we are of the view that the petitioner is entitled to get disability pension. Here, we would like to mention that against the decision of Punjab and Haryana High Court in RSA No. 714 of 2009, referred to above, the Union of India filed SLP before the Hon'ble Supreme Court of India, which was dismissed on the ground of delay and also on merits.

Accordingly, this application is allowed. The respondents are directed to assess and release the disability pension in favour of the petitioner as per his entitlement from the date of discharge within six months from the date of receipt of this order. The petitioner is also entitled to get arrears. However, it shall be restricted to a period of three years prior to filing of this application with interest @ 10% per annum.

**(Justice Ghanshyam Prasad)**

**(Lt Gen H.S. Panag (Retd))**

**25-10-2010**

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