

**ARMED FORCES TRIBUNAL CHANDIGARH REGIONAL BENCH  
AT CHANDIMANDIR**

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T.A No. 241 of 2009  
(Arising out of CWP No. 16464 of 2009)

Satbir Singh	...	Petitioner
v.		
Union of India and others	...	Respondents

ORDER  
20.09.2010

**Coram : Justice N. P. Gupta, Judicial Member**  
**Lt. Gen. H.S.Panag (Retd), Administrative Member**

For the Petitioner	:	Mr. K.B.Sidhu, Advocate
For the Respondents	:	Mrs.Geeta Singhwal, Sr.PC

Heard learned counsel for the parties.

This is a transferred matter, being Civil Writ Petition No.16464 of 2009 having been filed in the High Court of Punjab and Haryana, praying for grant of Disability Pension, Gratuity, Provident Fund and all other consequential benefits.

According to the averments of the petition, the petitioner joined service on 23.08.1988 and while so serving, in the year 1990, he was asked to lift up a Bag containing 100 Kg. of Sugar, which he did, and after ascending four steps, he fell down. He was taken to Station Sick Quarter and given treatment, but he could not be cured. Then, he was admitted on 18.02.1991. Then, he was discharged therefrom and was sent on leave for two months. It is then averred that the petitioner again reported back and was given medicine for 15 days, but he could be cured and was admitted in the Army Hospital,

Pune, where it was detected that he was having fracture of back bone. Then, he was operated upon on 04.12.1992 and 10.02.1992 and was ultimately medically downgraded to CEE (Temporary) and was sent to Unit. Then, he was again admitted to Military Hospital, Bikaner on 16.03.1992 and, vide Annexure P-1, he was declared unfit for any military job. The petitioner was sent to AFC Flight on 15.05.1992, which was located at 4 km. from his domestic area where it was not possible for him to go on bicycle. Thereupon, he was asked to go to the Hospital and then when he went to take his salary from the Unit, one officer, namely, Wing Commander A. C. Rose told him that he will get his salary from the Hospital. Thus, he was not paid salary and some signatures were obtained from him and he was forcibly sent home, apart from being putting in close arrest. **Inter-alia** with these averments, he has claimed the above reliefs.

Reply has been filed, contesting the averments, inter-alia, pleading that the petitioner was declared deserter from Indian Air Force from 26.05.1995 and dismissed from service with effect from 17.08.1998 in accordance with Section 20 (i) of the Air Force Act, 1950 read with Rule 18(2). Document, Annexure R-1 has been produced in this regard and Para 102 of Pension Regulations of Air Force, 1961 (Part-I) is relied upon to contend that a person dismissed from service is not entitled to pension.

It is also contended that despite having been dismissed in the year 1998, the petition has been filed in the year 2009, i.e. after a delay of eleven years. It is also pleaded that it was on account of his desertion that he could be subjected to Release Medical Board. A plea is also sought to be raised that the trouble arose to the petitioner

on account of his being suffering from tuberculosis. We may only stop at making reference to this fact and nothing beyond. Inter-alia with this, it is prayed that this petition be dismissed.

No rejoinder has been filed.

From perusal of Annexure R-1, it is clear that the petitioner was dismissed with effect from 17.08.1998 having deserted with effect from 26.05.1995 and the writ petition has been filed only in the year 2009. It is a different story that in the petition, dismissal order has not been challenged. Not only this, when this fact was pleaded by filing reply, even thereafter the petitioner has not taken any steps whatever to challenge the dismissal and has proceeded on the basis that he has suffered disability and is entitled to disability pension etc.

In our view, unless the dismissal order is set aside, for good and valid reasons after being challenged in accordance with law, as dismissed employee he cannot be said to be entitled to any type of pension in view of the clear provisions of Para 102 of Pension Regulations for Air Force, 1961 (Part-I).

The net result of the aforesaid discussion is that we do not find any merit in this petition. The same is, therefore, dismissed.

**[ Justice N. P. Gupta ]**

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

September 20, 2010  
RS