

IN THE SUPREME COURT OF INDIA

CIVIL APPLATE JURISDICTION

CIVIL APPEAL NO. 2337 OF 2009

UNION OF INDIA & ORS. Appellant (s)

VERSUS

CHANDER PAL Respondent(s)

WITH

CIVIL APPEAL NO. 6870 OF 2010

UNION OF INDIA & ANR Appellant(s)

VERSUS

RABI SINGH Respondent(s)
CIVIL APPEAL NO. 1074 OF 2011

UNION OF INDIA & ORS. Appellant(s)

VERSUS

KASHMIR SINGH Respondent(s)

O R D E R

Civil Appeal No. 2337 of 2009

We have heard Mr. Rakesh K. Khanna, learned Additional Solicitor General for the appellants.

2. The High Court in the impugned order has observed that Medical Board has not expressed specific opinion and, therefore, it would be unfair to subject the petitioner (respondent herein) who has put in number of years in the service to adverse consequences.

3. The Medical Board proceedings have been placed on record.

4. The opinion of the Medical Board to the two questions, (1) Was the disability contracted in service and (2) Was it contracted in circumstances which he had no control? is in the affirmative. As regard the two other questions (3) and (5), namely, Is it directly

attributable to conditions of service and If not directly attributable to service, was it aggravated thereby and if so, by what specific conditions ?, the answer given by the Medical Board is in the negative.

5. However, in the final opinion, no specific funding has been given and it is noted "instruction given to the percentage of disability individual by the 50% (fifty per cent)."

6. Having regard to the above, the High Court cannot be said to have erred in observing that the Medical Board has not expressed any specific final opinion.

7. Learned Additional Solicitor General sought to raise the argument that Regulation 173(I) of the Army Regulations is not applicable to the respondent. We are not inclined to consider this argument as we find that no such argument was raised on behalf of the appellants before the High Court. As a matter of fact, nobody appeared for the present appellants (respondents therein) when the matter was heard by the High Court.

8. In view of the above, we are satisfied that the impugned judgment does not call for any interference in exercise of our jurisdiction under Article 136 of the Constitution of India.

9. Appeal is, accordingly, dismissed with no order as to costs.

Civil Appeal No. 6870 of 2010

We have heard Mr. Rakesh K. Khanna, learned Additional Solicitor General for the appellants.

2. We are satisfied that this is not a fit case for our interference in exercise of our jurisdiction under Article 136 of the Constitution of India.

3. Appeal is, accordingly, dismissed with no order as to costs.

CIVIL APPEAL NO. 1074 OF 2011

We have heard Mr. Rakesh K. Khanna, learned Additional Solicitor General for the appellants.

2. We are satisfied that this is not a fit case for our interference in exercise of our jurisdiction under Article 136 of the Constitution of India.

3. Appeal is, accordingly, dismissed with no order as to costs.

.....J.
(R.M. LODHA)

.....J.
(MADAN B. LOKUR)

NEW DELHI;J.
SEPTEMBER 18, 2013 (KURIAN JOSEPH)

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2337 OF 2009

UNION OF INDIA & ORS.

Appellant (s)

VERSUS

CHANDER PAL

Respondent(s)

WITH

CIVIL APPEAL NO. 6870 OF 2010
(with office report)

CIVIL APPEAL NO. 1074 OF 2011
(with appln.(s) for stay)

S.L.P. (Civil) Nos. 17331-17332 of 2012
(with office report)

S.L.P. (Civil) Nos. 17333-17334 of 2012
(with office report)

Date: 18/09/2013 The Appeals and SLPs were called on for
hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Appellant(s) Mr. Rakesh K. Khanna, A.S.G.

Mr. R.P. Bhatt, Sr. Adv.
Mr. Nakul Diwan, Adv.
Mr. Aditya Singla, Adv.
Mr. D.S. Mahra, Adv.
Mr. Anirudh Tanwar, Adv.
Ms. Manita Verma, Adv.
Mr. P. Mathur, Adv.
Mr. Rajindra Kumar, Adv.
Ms. J. Janani, Adv.

For Respondent(s)

Mr. Himinder Lal, Adv. (NOT PRESENT)

Mr. S.K. Sabharwal, Adv.(NOT PRESENT)

Mr. Yash Pal Dhingra, Adv.(NOT PRESENT)

Mr. Avijit Bhattacharya, Adv.(NOT PRESENT)

UPON hearing counsel the Court made the following
O R D E R

Civil Appeal No. 2337 of 2009

Appeal is dismissed in terms of the signed order.

Civil Appeal No. 6870 of 2010

Appeal is dismissed in terms of the signed order.

Civil Appeal No. 1074 of 2011

Appeal is dismissed in terms of the signed order.

S.L.P. (Civil) Nos. 17331-17332 of 2012 and
S.L.P. (Civil) Nos. 17333-17334 of 2012

It transpires from the Office Report dated 23rd day of May, 2013 that service of notice on respondent No. 3 in S.L.P. (Civil) Nos. 17331-17332 of 2012 is not yet complete. Advocate-on-record for the petitioners is directed to take fresh steps for service on the unserved respondent No. 3.

An application for substitution of the deceased sole respondent in S.L.P. (Civil) Nos. 17333-17334 of 2012 has been filed but it is defective. Let steps be taken for removing the defects in the substitution application as pointed out in the Office Report dated 23rd day of May, 2013.

Mr. Rakesh K. Khanna, learned Additional Solicitor General for the petitioners, submits that these special leave petitions have no direct connection with Civil Appeal No. 2337 OF 2009.

In view of the above submission of the learned Additional Solicitor General, these special leave petitions are delinked.

List these special leave petitions after they are complete in all respects.

|(Rajesh Dham)
|Court Master

| |(Renu Diwan)
| |Court Master

|

(signed order in Civil Appeal No. 2337 of 2009, Civil Appeal No. 6870 of 2010 and Civil Appeal No. 1074 of 2011 is placed on the file)