IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 1837 OF 2009

UNION OF INDIA & ANR. Appellant (s)

VERSUS

RAVINDER KUMAR Respondent (s)

ORDER

1. This appeal has been preferred against the impugned judgment and order dated 31st December, 2007 in L.P.A. No. 212 of 2006 passed by the High Court of Jammu and Kashmir at Jammu by which it affirmed the orders of the Courts below entitling the respondent to disability pension taking the view that the respondent who had joined Army service in 1998 as a Rifleman (Sepoy) got the ailment 'Solitary Generalized Tonic Clonic Seizure' which was attributable to Army service.

2. 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, 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).

3. 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.

4. This Court recently decided an identical case in Union of India & Ors. v. Jujhar Singh, AIR 2011 SC 2598, and after reconsidering

2

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/ailment to the person and the normal expected standard of duties and way of life expected from such person. (See also: Secretary, Ministry of Defence & Ors. v. Ajit Singh, (2009) 7 SCC 328).

3

5. 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.

6. In the instant case, the Medical Board has opined as under:

"ID. Generalized Tonic Colonic Seizure

MA opinied that ID is genetic in origin, not connected with service."

Thus, in view of the above, it is evident that the ailment with which the respondent has been suffering from is neither aggravated nor attributable to the Army services.

7. In the result, the appeal succeeds and is accordingly allowed. Impugned judgments/orders are set aside. No costs.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(DIPAK MISRA)

New Delhi,
May 23, 2012.

ITEM NO.110 COURT NO.5 SECTION XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 1837 OF 2009

UNION OF INDIA & ANR. Appellant (s)
VERSUS

RAVINDER KUMAR Respondent(s)

WITH SLP(C) NO. 16813 of 2012
(With office report)

Date: 23/05/2012 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE DIPAK MISRA
(VACATION BENCH)

For Appellant(s) Mr. R.P. Bhat, Sr. Adv.
Ms. Rekha Pandey, Adv.
Mr. B.V. Balram Dass, Adv.

Mr. B. Krishna Prasad,Adv.

Mrs Anil Katiyar, Adv.

For Respondent(s) Mr. Ashok Mathur,Adv.
Mr. Anshul Narayan, Adv.
Ms. Kanika Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

CIVIL APPEAL NO(s). 1837 OF 2009

The appeal is allowed in terms of the signed order.

SLP(C) NO. 16813 of 2012

Issue fresh notice.

(G. SUDHAKARA RAO)
COURT MASTER

(M.S. NEGI)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)