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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24.10.2024

\+ W.P.(C) 14994/2024

UNION OF INDIA & ORS. .....Petitioners

Through: Mr.Manish Kumar, SPC, Mr.Ram Kumar, Mr.Sushil Kumar, Advs. with Major Anis Murlidhar.

versus

MAJ PRASANNA V RETD SL 4628 A .....Respondent

Through: Mr.Shakti Chand Jaidwal, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 62830/2024 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 14994/2024 & CM APPL. 62829/2024

2. This petition under Article 226 of the Constitution of India has been filed by the petitioners, challenging the order dated 21.12.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'AFT') in OA No. 14/2021 titled ***Maj Prasannan V (Retd) v. Union of India & Ors***., which has directed as under:

> *"23. Therefore, in view of our analysis the OA 14/2021 is allowed and the Respondents are directed to* ***grant benefit of disability element of pension @30% for life*** *for Schizophrenia*

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rounded off to 50% for life in view of judgment of the Hon'ble Apex Court in ***Union of India Vs. Ram Avtar (supra)*** *from the date of invalidment i.e. 04.08.2009. The arrears shall be disbursed to the applicant within three months of receipt of this order failing which it shall earn interest @ 6% p.a. till the actual date of payment. However, in as much as the instant OA has been filed with delay, the arrears in view of the verdict of* ***UOI & Ors Vs Tarsem Singh*** *2009 (1) AISLJ 371, will commence to run a period of three years prior to institution of the present OA i.e. 07.12.2020."*

3. The petitioners, in challenge to the said order, submits that the learned AFT has erred in law and on facts in drawing a presumption that the disability suffered by the respondent herein was attributable to or aggravated by service.

4. The learned counsel for the petitioners, placing reliance on the Medical Board Proceedings and the Service Record of the petitioner, submits that the respondent herein has, in fact, been posted on a clerical post/records for the entire portion of his service except for the first posting which was the mandatory field posting. He submits that therefore, the disability, that is, Schizophrenia with which the respondent was detected, cannot be said to have been caused or as being aggravated by service. He submits that the disease is, in fact, constitutional, hereditary and a genetic disorder.

5. The learned counsel for the respondent, who appears on advance notice, submits that these issues have been duly considered by the learned AFT and there is no reason for this Court to interfere in the same.

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6. We have considered the submissions made by the learned counsels for the parties.

7. In the present case, we find that the learned AFT has taken specific notice of the stand of the respondent that during his first posting itself, he was posted to 15 SIKHLI Regiment for Counter Insurgency Operations against ULFA insurgents in Assam, where he was made a part of OPS Rhino, wherein he led from the front during various raids on ULFA hideouts, thereby killing at least 24 militants and apprehending another 128 militants. The respondent had to spend sleepless nights while undertaking cordon and search operations during silent hours, due to which, he developed the sleep disorder/Insomnia. In 2001, the respondent was admitted to Military Hospital, Jabalpur, where he was diagnosed as being suffering from Schizophrenia. Though the applicant's disability arose at a peace area i.e. Panchmarhi, the same occurred within one year of having served in Counter Insurgency Ops area and therefore, the disability of the Schizophrenia was held to be attributable to military service by the learned AFT. It was noted that it may be due to the delayed manifestation of exposure to tremendous stress and strain.

8. The learned AFT has also taken note of the remarks of Commanding Officer in Paragraph 5 of Part III of the IMB proceedings, which stated that the respondent's duties involved severe/exceptional stress and strain.

9. This Court is not sitting as an Appellant Authority over the decision taken by the learned AFT. We find no jurisdictional error having been committed by the learned AFT.

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10. We, therefore, find no merit in the present petition. The same is accordingly dismissed. The pending application also stands disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 24, 2024/Arya/as

Click here to check corrigendum, if any

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