



**Serial No.17**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C). No. 341 of 2022

Date of Order : 12.09.2024

Shri. Dharampal Singh

...Petitioner

-Versus-

1. Union of India through the Secretary,  
Ministry of Home Affairs,  
Government of India,



2. The Commandant,  
Director General Assam Rifles,  
PEN/NE, Records (Disability)



...Respondents

**Coram:**

**Hon'ble Mr. Justice H.S.Thangkhiew, Chief Justice (Acting)**

**Appearance:**

For the Petitioner/Applicant(s) : Mr. S.Pandey, Adv.

For the Respondent(s) : Dr. N.Mozika, DSGI with  
Ms. K.Gurung, Adv.

- |     |  |        |
|-----|--|--------|
| i)  | Whether approved for reporting in<br>Law journals etc: | Yes/No |
| ii) | Whether approved for publication<br>in press: _        | Yes/No |

**JUDGMENT AND ORDER (ORAL)**



1. The petitioner is before this Court by way of the instant writ petition praying for directions to issue to the respondents to grant and release the disability pension as admissible.

2. The brief facts are that the writ petitioner who was recruited in Assam Rifles on 12-03-1986, while undergoing basic training, sustained injuries on his legs on 28-04-1986. The nature of injuries resulted in causing 40% disability and the writ petitioner was boarded out of service on 01-04-1988 vide Discharge Certificate dated 18-02-1988. The petitioner, from the time of recruitment till discharge, had only put in 2 years and 20 days of qualifying service, but the fact that the injury was caused and the disability was attributable to service conditions is not disputed. The contention raised by the respondents with regard to the entitlement of the benefit of disability pension is on two grounds. Firstly, that the writ petitioner did not have a minimum qualifying service of 10 years and secondly, to be eligible for disability pension, the extent of disability should be to the extent of 60%.

3. Mr. S.Pandey, learned counsel for the petitioner in his submissions without extensively dwelling on the facts, has maintained that the writ petitioner is entitled to disability pension and to support his case, has placed a decision rendered by a Division Bench of this Court in the case of *Union of India & Anr. vrs. Shri Satyanarayan* (WA. No. 57 of 2014,



decided on 22-04-2015) reported in *2015 (4) GLT (ML) 5*. The learned counsel has taken this Court through the judgment to show that the case of the petitioner is covered by the judgment in question whereby this Court had allowed the benefit of disability pension while discussing the entire aspect of entitlement.

4. Dr. N.Mozika, learned DSGI assisted by Ms. K.Gurung, learned counsel on behalf of the respondents, in reply has submitted that in view of the judgment rendered by this Court, the objections that the respondents only have is with regard to delay and laches in approaching this Court to seek relief. He submits that the petitioner had been discharged from service as far back as in 1988 and though had sought some relief before a Court which however lacked jurisdiction, had come before this Court only in the year 2022. As such, he submits on this ground, notwithstanding the other objections as raised, the writ petitioner is not entitled to any relief at this stage.

5. I have heard learned counsel for the parties and perused the materials on record, especially the judgment placed by learned counsel for the petitioner. Upon hearing the learned counsel for the parties, from the facts of the case as they pertain, it is seen that the respondents though initially by a communication dated 18<sup>th</sup> May, 2020, had communicated that the writ petitioner was eligible for grant of disability pension in accordance



with the percentage of disability suffered by him as per CCS (Extraordinary Pension) Rules, 1939, however, by a subsequent communication dated 13<sup>th</sup> July, 2022, had backtracked by holding that the writ petitioner's disablements should not be less than 60%. This was followed by the impugned letter dated 18<sup>th</sup> August, 2022 with regard to the qualifying years of service whereby the disability pension was denied to the writ petitioner on the ground that he had rendered only 2 years 20 days of qualifying service. In the backdrop of these facts and by applying the judgment rendered by this Court in ***Union of India & Anr. vrs. Shri Satyanarayan (supra)***, the objections as raised by the respondents have no legs to stand on. For the sake of convenience, the relevant paragraphs of the said judgment are reproduced herein below:

*“11. In Central Civil Services (Extraordinary Pension) Rules, Rule 3-A provides for disability. It says that if the disablement is attributable to Government service, then the claimant claiming the benefits of disability pension can acquire eligibility. In the instant case, there is no dispute that the respondent suffered 20% disability during the course of training. Therefore, he can be said to be entitled to claim the benefits of disability pension. Though, a ground has been taken that the injury was suffered during the course of training when the claimant was acquiring the competence to perform duty, therefore, it cannot be said to be connected with performance of duty. The argument cannot be acceptable for the simple reason that the respondent was found medically fit at the time*



*of recruitment and that is why, he was admitted to training. Besides, having knowledge of the requirement of medical fitness for continuance in job, generally no one would perform a feat of the training in a negligent manner to suffer serious injury with debacle of being declared a Low Medical Category. The injury suffered in this case could only be an accidental injury unforeseen by the trainee/recruit. At the time of acceptance of respondent for service as Rifleman, there was also no note of any kind of disease or deficiency which could have stopped him from completing his training.*

**14. Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners Welfare) vide Office Memorandum No. F. No. 45/86/97-P&PW (A)-Part-II dated 27.10.1997, vide paragraph 5.2 has also provided as under:**

*“5.2 Where the disability pension under the CCS (EOP) Rules, is drawn in addition to invalid pension under the CCS (Pension) Rules, 1972, the minimum limit of Rs. 1275/- will apply to total of two pensions as indicated in paragraph 5.1. Where the disability pension is drawn in isolation, the minimum limit of Rs. 1275/- will apply for 100% disability. For lesser degree of disability the minimum limit will be proportionately less.”*

*The above extract is relevant for the purpose that the Ministry has provided that for a lesser degree of disability, the minimum pension limit will be proportionately less. Hence, the stand of Assam Rifles that since the disability has been assessed to be less than 60% the respondent should not be granted pensionary benefits cannot be acceptable. Besides, there is a distinction between invalid pension and disability pension. Again, Ministry of Personnel, Public Grievances & Pensions (Department of Pension &*



*Pensioners Welfare) vide Office Memorandum dated 7.8.2001 has clarified the position:*

*“The invalid pension may continue to be regulated as per the CCS (Pension) Rules subject to certain minimum amount and the extraordinary disability pension may continue to be treated as a separate element and this should be fixed as per the degree of disability. This will be subject to the further condition that the amount of disability pension and invalid pension in no case exceed the last pay drawn.”*

*The CCS (Pension) Rules, 1972 deals with invalid pension whereas Rule 3-A of the Extraordinary Pension Rules provides for disability pension provided that the eligibility to claim pension would depend upon attributability of disability to the service.”*

6. Accordingly, in view of the facts and circumstances of the case and the position of law as applicable, the writ petitioner is therefore held to be entitled to disability pension as prayed. However, considering the time taken for the writ petitioner to approach this Court for seeking relief, by applying the prescription as given in the case of ***Union of India & Ors. vs. Tarsem Singh (2008) 8 SCC 648***, this Court deems it fit to allow the benefits of disability pension to commence from three years before filing of the instant writ petition. Needless to add, the respondents shall compute the pension payable along with arrears thereon, and complete the exercise preferably within a period of three months from the date a copy of this order is furnished before the concerned respondents.



7. Writ petition accordingly stands allowed and disposed of.

**Chief Justice (Acting)**