



W.P.(C) No. 21691/2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K. NATARAJAN

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2026 / 15TH MAGHA, 1947

WP(C) NO. 21691 OF 2023

PETITIONER/APPLICANT:

RAJENDRAN P., NO. 7118581, EX CFN, AGED 65 YEARS
S/O. PAPPUKUTTY, RESIDING AT ROHINI, NEAR VILLAGE OFFICE,
PULIMATH P.O., TRIVANDRUM DISTRICT., PIN - 695 612

BY ADVS.
SRI.V.K.SATHYANATHAN
SHRI.VINOD K.C.

RESPONDENTS/RESPONDENTS:

- 1 UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF DEFENCE, SOUTH BLOCK, NEW DELHI., PIN - 110011
- 2 THE CHIEF OF ARMY STAFF, INTEGRATED HEAD QUARTERS (ARMY), NEW DELHI., PIN - 110 011.
- 3 PRINCIPAL, CONTROLLER OF DEFENCE ACCOUNTS (PENSION) ALLAHABAD, OFFICE OF THE P.C.D.A (P), DRAUPADI GHAT, ALLAHABAD, UTTAR PRADESH., PIN - 210 014.

R1 TO R3 BY ADV SHRI.P.R.AJITH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.01.2026,
THE COURT ON 04.02.2026 DELIVERED THE FOLLOWING:



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'C.R'

K. NATARAJAN & JOHNSON JOHN, JJ.

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Dated this the 4th day of February, 2026

J U D G M E N T

Johnson John, J.

The writ petitioner was the applicant in O.A. No.46 of 2018 before the Armed Forces Tribunal, Regional Bench, Kochi and as per order dated 31.08.2022, his application against non grant of disability pension for 'Generalised Anxiety Disorder' was dismissed for the reason that there is no basis for the challenge against the valid medical opinion that the disease was not attributable to or aggravated by military service and that there is an inordinate delay of more than 31 years in preferring the claim.

2. Heard Sri. V. K. Sathyanathan, the learned counsel for the writ petitioner and Sri. P. R. Anith Kumar, the learned counsel for respondents.

3. The learned counsel for the writ petitioner argued that the writ petitioner was enrolled in the army on 29.09.1969 and he was invalidated



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out of service on 13.11.1976 due to low medical category. He was found suffering from disability of 'Neurosis' by the Invaliding Medical Board to the extent of 30% for two years. For the reason that the disability was neither attributable to nor aggravated by military service, he was not granted disability pension and the said order was challenged in O.A. No. 207 of 2013 before the Armed Forces Tribunal. As per order dated 23.06.2014, the said application was dismissed mainly for the reason that the disability was neither attributable to nor aggravated by the military service and that the disability was only for two years and the said period of two years expired in the year 1979. However, while dismissing the application, the Tribunal observed that it is always open to the applicant to move a petition for holding a re-assessment by the Medical Board to assess his disability and for that purpose, no direction of the Tribunal is necessary.

4. Subsequently the Re-assessment Medical Board found that he has disability of "Generalised Anxiety Disorder" to the extent of 40% lifelong. But, his claim for disability pension was denied for the reason that there is nothing in the Re-assessment Medical Board proceedings to



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show that the disability is attributable to or aggravated by military service. In the impugned order, the Tribunal also observed that as per the findings of the Release Medical Board dated 16.10.1976, the applicant was found suffering from disability of 'Neurosis (300-b)', which was considered neither attributable to nor aggravated by military service and assessed at 30% for two years and in the Re-assessment Medical Board findings recorded after a lapse of about 39 years, he was found suffering from 'Generalized Anxiety Disorder' at 40% lifelong and that the Invaliding Medical Board and the Re-Assessment Medical Board have diagnosed different medical conditions. It is further observed that there is nothing in the Re- assessment Medical Board report to show that the disability is attributable to or aggravated by military service and that the entitlement of a soldier to disability pension cannot be determined on the basis of a medical examination conducted after more than 39 years from his date of discharge.

5. The learned counsel for the writ petitioner argued that in view of Rule 9 of the Entitlement Rules for Casualty Pensionary Awards, 1982, the applicant cannot be called upon to prove the conditions of



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entitlements, and that a conjoint and harmonious reading of Rules 5, 9 and 14 of Entitlement Rules (supra), shows that it is to be presumed that a member have been in sound, physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his being discharged from service on medical grounds at any subsequent stage, it must be presumed that any such deterioration in his health which has taken place is due to such military service.

6. The learned counsel for the respondents relied upon the decisions of the Honourable Supreme Court in ***Union of India and Ors. v. Keshar Singh*** (2007) 12 SCC 675, ***Om Prakash Singh v Union of India and Ors.*** (2010) 12 SCC 667, ***Secretary, Ministry of Defence and Ors. v. A. V Damodaran (Dead) through LRs. and Ors.*** (2009) 9 SCC 140 and ***Union of India and Ors. v. Ram Prakash*** (2010) 11 SCC 220) and contended that the opinion of the Medical Board on the question whether the disability is attributable to or aggravated by military service must be respected and that the opinion expressed by medical experts could not be lightly brushed aside.

7. In ***Union of India v. Parashotam Dass*** (2025) 5 SCC 786, the Honourable Supreme Court held that where there is denial of



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fundamental right or jurisdictional error or error apparent on the face of record, the High Court can interfere by exercising the jurisdiction under Article 226 of the Constitution of India and that self-restraint by High Court in exercise of jurisdiction under Article 226 of the Constitution is distinct from putting embargo on High court in exercising such jurisdiction. In the said decision, the Honourable Supreme Court held thus in paragraph 30:

“30. How can courts countenance a scenario where even in the aforesaid position, a party is left remediless? It would neither be legal nor appropriate for this Court to say something to the contrary or restrict the aforesaid observation enunciated in the Constitution Bench judgment in *S.N. Mukherjee* [*S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242] case. We would loath to carve out any exceptions, including the ones enumerated by the learned Additional Solicitor General extracted aforesaid as irrespective of the nature of the matter, if there is a denial of a fundamental right under Part III of the Constitution or there is a jurisdictional error or error apparent on the face of the record, the High Court can exercise its jurisdiction. There appears to be a misconception that the High Court would reappreciate the evidence, thereby making it into a second appeal, etc. We believe that the High Courts are quite conscious of the parameters within which the jurisdiction is to be exercised, and those principles, in turn, are also already enunciated by this Court.”

8. As noticed earlier, as per the findings of the Release Medical Board dated 16.10.1976, the applicant was found suffering from the disability of 'Neurosis (300 -b)' and the same was considered as neither



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attributable to nor aggravated by military service and assessed at 30% for two years. As per the findings of the Re-assessment Medical Board, he is suffering from 'Generalised Anxiety Disorder' at 40% lifelong. The findings of the Re-assessment Medical Board dated 04.08.2015 shows that the individual since his invalidment has been functional in socio-occupational spheres, however, he claims to have episodes of anxiety for which he was taking ayurvedic medications. It is stated that the present psychiatric evaluation did not reveal persistent and pervasive anxiety symptoms clinically. The report shows that in view of anxious, avoidant and negative personality traits on psychometry, he was given the benefit of psychoeducation and psychotherapy aimed at improving coping skills; and that he has been advised to follow up with a Psychiatrist in case of worsening of symptoms. The Re-assessment Medical Board report shows that evaluation at the time of initial admission had revealed domestic stressors in the form of worries about old father's chronic illness (hemiplegia), divorced elder sister and that after his discharge from service, he worked as a mechanic in a workshop for 2-3 years and thereafter, he was employed in a spare parts shop and



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subsequently, he started working in his own agricultural land. In the absence of any material to indicate that the disability assessed by the Invaliding Medical Board or in the Re-assessment Medical Board is attributable to or aggravated by military service, it cannot be held that there is any denial of fundamental right or jurisdictional error or error apparent on the face of the record warranting interference under Article 226 of the Constitution of India. In view of the opinion expressed by the medical experts in the initial Medical Board assessment and the Re-assessment Medical Board, we find that the writ petitioner is not entitled to derive the benefit of the presumptions on the basis of Rules 5, 9 and 14 of the Entitlement Rules (supra) and therefore, we find that this writ petition is liable to be dismissed

In the result, this writ petition is dismissed.

sd/-

**K. NATARAJAN,
JUDGE.**

sd/-

**JOHNSON JOHN,
JUDGE.**

Rv



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APPENDIX OF WP(C) NO. 21691 OF 2023

PETITIONER'S EXHIBITS:

- Exhibit-P1 A TRUE COPY OF THE ORIGINAL APPLICATION OA NO. 46/2018 ALONG WITH ANNEXURES A1 TO A8 DATED 07.12.2017.
- Exhibit-P2 A TRUE COPY OF THE REPLY STATEMENT DATED 19 MAY 2018 SUBMITTED BY THE RESPONDENTS
- Exhibit-P3 A TRUE COPY OF THE ORDER DATED 31 AUG 2022 IN O.A. NO. OA 46/ 2018 PASSED BY THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI.
- Exhibit-P4 A TRUE COPY OF THE ORDER OF THE HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NO(S) 11485 OF 2018, DATED 08 APRIL, 2019.
- Exhibit-P5 A TRUE COPY OF JUDGEMENT OF THE HON'BLE SUPREME COURT OF INDIA IN APPEAL NO(S) 4714-4715 OF 2012, DATED 07 NOVEMBER, 2019.
- Exhibit-P6 A TRUE COPY OF ORDER DATED 11 FEBRUARY, 2009 IN LPA NO. 547 OF 2001 IN CWP NO. 17043 OF 1998.
- Exhibit-P7 A TRUE COPY OF ORDER DATED 23 MARCH, 2022, IN O.A. NO. 144 OF 2018 PASSED BY THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI.

RESPONDENT'S EXHIBITS:

- EXHIBIT R1(a) TRUE COPY OF THE MEDICAL CERTIFICATE DATED 16.10.1976
- EXHIBIT R1(b) TRUE COPY OF THE RELEVANT EXTRACT OF THE REGULATIONS FOR MINIMUM QUALIFYING SERVICE FOR PENSION
- EXHIBIT R1(c) TRUE COPY OF THE RELEVANT EXTRACT OF THE REGULATIONS FOR PRIMARY CONDITIONS FOR THE GRANT OF DISABILITY PENSION
- EXHIBIT R1(d) TRUE COPY OF THE ORDER DATED 24.08.1977
- EXHIBIT R1(e) TRUE COPY OF THE LETTER NO.18581/02/PEN DATED 21.09.1977
- EXHIBIT R1(f) TRUE COPY OF THE REPLY NO.7118581/COURT CASE/LN/PEN DATED 17.05.2012
- EXHIBIT R1(g) TRUE COPY OF THE LETTER NO.7118581/T-1/COURT CASE CELL DATED 05.08.2014
- EXHIBIT R1(h) TRUE COPY OF THE SANCTION LETTER NO.B/12048/3392/GEN/EME PERS DATED 03.06.2015
- EXHIBIT R1(i) TRUE COPY OF THE LETTER DATED 30.06.2015
- EXHIBIT R1(j) TRUE COPY OF THE COMMUNICATION NO.G3/VII/EME/2016/CC/C-106 DATED 13.04.2016.
- EXHIBIT R1(k) TRUE COPY OF THE LETTER NO.G-3/VII/EME/2016/C-280 DATED 14.08.2016

/True Copy/

P.S to Judge