NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9654 OF 2014

UNION OF INDIA & ORS. ... APPELLANTS

v.

EX. NAIK RAM SINGH ... RESPONDENT

J U D G M E N T

ABHAY S. OKA, J.

1. The appellants, Union of India and three others, have taken an exception to the judgment and order dated 23rd December 2010 of the Armed Forces Tribunal, Chandigarh Bench at Chandimandir (for short, 'the Tribunal').

2. By the impugned judgment and order, the appellants were directed to release the disability pension quantified at 80% disability for life to the respondent from the date of his discharge

from military service. The appellants were directed to pay arrears of disability pension restricted to a period of three years immediately preceding filing of the application by the respondent before the Tribunal. Interest @10% per annum was granted on the arrears.

3. The respondent was enrolled in the Army on 4th June 1965. After rendering colour service for 10 years and 88 days, he was transferred to reserved establishment on 30th August 1975. During his reserve period, he voluntarily got himself enrolled in Defence Security Corps on 7th January 1976. On 6th November 1999, the respondent was granted annual leave. He proceeded to Kishanpura on the same day. While on leave, on 8th November 1999, he suffered an accident. While crossing the road, he was hit by a speedy scooter. As a result of the accident, he sustained head injury and became unconscious. The Medical Board assessed the percentage of the disability of the respondent at 80%. The Medical Board placed the respondent in low medical category (EEE). On that ground, he was invalidated out of service from 28th September 2000.

4. The respondent made an application to the Armed Forces Tribunal praying for grant of disability pension. In the impugned judgment, the Tribunal relied upon its decision dated 15th December 2010 in T.A. No.237 of 2010 ***(Ex. NK. Raj Pal v. Union***

of India & Ors.). The Tribunal held that if an individual sustains an injury during the period of any kind of authorized leave and his act was not inconsistent with Military service, his disability is deemed to be attributable to Military service.

5. On 6th December 2013, this Court issued notice to the respondent. After service of notice, the respondent did not appear. While granting leave on 10th October 2014, a fresh notice was issued to the respondent which has been duly served. The respondent did not enter appearance even thereafter.

6. Shri K.M. Nataraj, learned Additional Solicitor General urged that there has to be a reasonable connection between the injuries sustained by a member of Armed Forces resulting in disability and the Military service. He invited our attention to Regulation 173 of the Pension Regulations for the Army, 1961 (for short, 'the Pension Regulations'). He also invited our attention to Rule 12 of the Entitlement Rules for Casualty Pensionary Awards, 1982. He submitted that the accident occurred couple of days after the respondent travelled from the place of his duty to leave station. He would submit that the respondent was disentitled to disability pension. He fairly pointed out that the decision of the Tribunal in T.A.No.237 of 2010 relied upon in the impugned judgment, was challenged by the Union of India. However, the special leave petition was dismissed summarily. He submitted that what holds

the field is the decision of this Court in the case of ***Union of India & Ors. v. Vijay Kumar No.3989606 P, Ex-Naik***[1]***.***

7. On facts, it is an admitted position that the respondent was granted annual leave on 6th November 1999. He proceeded on the same day to leave station. On 8th November 1999, when he was crossing the road, he suffered an accident. As noted earlier, his disability was assessed at 80%. Regulation 173 of the Pension Regulations reads thus.:

> **"173.*Primary conditions for the grant of disability pension***.-Unless otherwise specifically provided a disability pension consisting of service element and disability element may be granted to an individual who is invalidated out of service on account of disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over.**"**
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> (underline supplied)

8. The Entitlement Rules, 1982 and in particular Rule 12, defines 'Duty'. Clause (d) of Note 2 which is a part of Rule 12 clarifies that personnel while travelling between the place of their duty to leave station and vice-versa, shall be treated on duty. It is not the case made out by the respondent that the accident occurred when he was travelling to leave station. It happened after he reached the leave station. Unless the disability is attributable

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to or aggravated by military service and is more than 20%, the entitlement to disability pension does not arise.

9. This Court in the case of ***Vijay Kumar***[1], after considering Regulation 173 of the Pension Regulations and Rule 12 of the Entitlement Rules, 1982, in paragraph 14 held thus.:

> **"14.** The Entitlement Rules for Casualty Pensionary Awards, 1982 are beneficial in nature and ought to be liberally construed. In terms of Rule 12, the disability sustained during the course of an accident which occurs when the personnel of the armed forces is not strictly on duty may also be attributable to service on fulfilling of certain conditions enumerated therein. But there has to be a reasonable causal connection between the injuries resulting in disability and the military service."
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> (underline supplied)

10. What is held above, is the binding precedent. In the present case, as noted earlier, two days after the respondent reached the leave station, he met with an accident on a public road. There is absolutely no nexus between the Military service and injuries sustained by the respondent. There is not even a causal connection. The Tribunal has completely overlooked this aspect which goes to the root of the matter. Hence, the respondent was not entitled to the disability pension.

11. Accordingly, Civil Appeal is allowed. Impugned Judgment dated 23rd December 2010 is hereby set aside. O.A. No.944 of 2010 filed by the respondent stands dismissed. No order as to costs.

.....J.

(Abhay S. Oka)

.....J.

(M.M. Sundresh)

July 18th, 2022
New Delhi.