

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2005

CORAM

THE HON'BLE MR.MARKANDEY KATJU, CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

Writ Appeal No.3143 of 2004

R.Paramasivam ..Appellant.

Vs.

1. Union of India,
rep. by its Secretary to Government of India,
Ministry of Defence,
New Delhi.
2. The Col.Commanding Officer,
N.E.R. Section,
Arty Record Camp,
Nasik Road,
Maharashtra - 422 102. ..Respondents.

Writ Appeal filed under Clause 15 of the Letter patent
against the order dated 29.03.2004 passed in Writ Petition
No.19449 of 1999.

For Appellant :: Mr.A.Thirumurthy
For Respondents :: Mr.S.Manikumar, S.C.G.S.C.

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J U D G M E N T

(The Judgment of the Court was delivered by The Hon'ble The
Chief Justice)

This writ appeal has been filed against the impugned order of
the learned single Judge dated 29.03.2004 passed in Writ Petition
No.19449 of 1999.

2. The petitioner/appellant had sought disability pension. He was found physically incapacitated by the Medical Board of Doctors and he was discharged from Army service on 19.08.1993. In the counter affidavit filed on behalf of the respondents it is stated that the Medical Board has viewed his disability as neither attributable to nor aggravated by Military Service and opined that it was a constitutional disorder and was not connected with his service. Also, the Medical Board assessed the degree of disability at less than 20%, which is the minimum required for getting disability pension.

3. This Court cannot sit as a Court of appeal over administrative decisions. The scope of judicial review of administrative decisions is very limited. It is true that while prior to 1947 the Courts would not undertake judicial review of administrative decisions, but after the historical decision of the House of Lords in the *Wednesbury Case* (*Associated Provincial Picture Houses Ltd. Vs. Wednesbury Corporation*, (1947) 2 All.E.R. 680) the law was slightly changed and it was held that there can be judicial review of administrative decisions but that can only be done only on certain very limited grounds, vide *State of N.C.T. of Delhi Vs. Sanjeev*, AIR 2005 SC 2080. The Court cannot ordinarily sit in appeal over the decision of the administrator, but can only look into the manner of reaching the said decision. In the present case, we cannot question the decision of the Medical Board and we cannot sit in appeal over the same.

4. Our view gets support from the decision of the Supreme Court in *Union of India Vs. Baljit Singh*, (1996) 11 SCC 315 = 1997 (1) SLR 98 and the decision of the Punjab and Haryana High Court in *Gurdip Singh (retd) Subedar (Hony Lt) Vs. Union of India*, 1997 (5) SLR 341.

5. In view of the above, this writ appeal is dismissed. No costs.

Vu/sm

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:-

1. The Secretary to Government of India,
Ministry of Defence,
New Delhi.

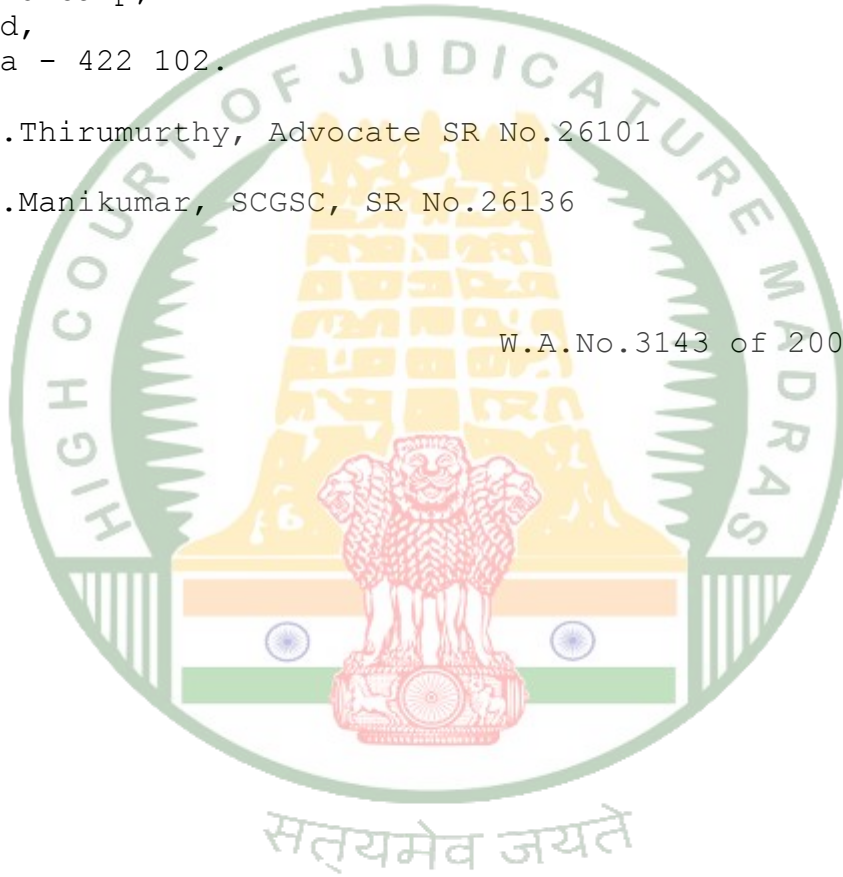
2. The Col.Commanding Officer,
N.E.R. Section,
Arty Record Camp,
Nasik Road,
Maharashtra - 422 102.

+ 1 cc to Mr.A.Thirumurthy, Advocate SR No.26101

+ 1 cc to Mr.S.Manikumar, SCGSC, SR No.26136

MAB(CO)
SR/11.7.2005

W.A.No.3143 of 2004.



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