

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

LPASW no. 254/2003
CMP no. 348/2003

Date of order: 09.02.2011

U.O.I. & anr.

v.

Amar Singh.

Coram:

Hon'ble Mr. Justice Dr. Aftab H. Saikia, Chief Justice

Hon'ble Mr. Justice Mansoor Ahmad Mir, Judge

Appearing counsel:

For appellant (s) : Mr. K. K. Pangotra, ASGI.
For respondent (s) : Mr. Z. A. Mughal, Advocate.

i) Whether approved for reporting in Yes.

Law Journal etc.

ii) Whether approved for publication in Yes.

Press.

Dr. Saikia, CJ:

Heard Mr. K. K. Pangotra, learned Assistant Solicitor General of India as well as Mr. Z. A. Mughal, learned counsel appearing on behalf of the respondent.

2. The judgement and order dated 08.05.2002 pronounced in SWP no. 2603/2001 by the Writ Court has been assailed by the Union of India-appellants herein on a limited point that respondent, who was working as Sepoy in the J&K Rifles, being injured while on annual leave, is not entitled to get the disability pension. The Writ Court in the impugned judgement and order observed and held as follows:

"In view of the above and in view of the conclusion arrived at that the injury sustained by the petitioner would be deemed to have been sustained while on duty, petitioner is held entitled to disability pension. Let this be paid to him at the percentage assessed by the Medical Board. The same would be released in his favour within a period of three months from the date, a copy of this order is made available to the respondents by the

petitioner. The petitioner would also be entitled to interest at the rate of 6 percent on the arrears. In case, the disability pension is not released, the rate of interest would be 9 percent and this enhanced component would be payable by the person on whose account the delay occurs.”

3. We have meticulously scrutinized the findings, observations and discussions so recorded in the impugned judgement and order. It is found that learned Single Judge, while allowing the writ petition relied upon a catena of judicial authorities, particularly, (i) **Shashi Kumar Mishra v. Union of India 1996 (3) SCT 441;**(ii) **Janak Raj v. Union of India, 2000 (2) SCT 456;** (iii) **Nk. Darshan Singh v. Union of India, 2000 (2) SCT 504,** (iv) **Ex. Capt. Harbhajan Singh v. Union of India, 2001(2) SCT 1123** and (v) **Pritam Singh v. State and ors., 1980, JKLR, 16.** In all those referred cases, the Apex Court as well as this Court, while dealing with the similar point regarding the entitlement of disability pension of an injured service personnel on annual leave, unhesitatingly, held that the officer on leave would be entitled to disability pension as he would be deemed to have been in service while injured.

5. Having regard to the cases cited above as well as the impugned judgement and order, we are of the view that since the respondent got injured during on availing annual leave; he is entitled to get the disability pension.

6. In our opinion, this appeal is bereft of merit which deserves to be dismissed.

7. In view of the above, we affirm the findings so expressed and recorded by the Writ Court and, accordingly, we are in full agreement with

the direction given by the said Court. As a result, this appeal stands dismissed.

8. Be it made clear that the direction to grant disability pension, as directed by the Writ Court, shall be complied with and implemented within a period of 90 days to be reckoned from the date of receipt of copy of this judgement and order made available to the respondents.

9. Registry is directed to furnish true attested copy of this order to Mr. K. K. Pangotra, learned ASGI, for doing the needful.

(Mansoor Ahmad Mir)
Judge

Jammu:
09.02.2011
Sunita.

(Dr. Aftab H. Saikia)
Chief Justice