



2025:DHC:4962-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 02.05.2025

Pronounced on: 12.06.2025

+ W.P.(C) 11442/2016

MANVIR SINGH

.....Petitioner

Through: Mr. Shrutanjaya Bhardwaj, Ms.
Harshita Verma, Mr. Omkar
Hemanth, Ms. Siddhi
Nagwekar, Advs.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Rajesh Kumar, SPC with
Mr. Rahul Kumar Sharma, Mr.
Yash Narain, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J

1. The petitioner before us is aggrieved by and dissatisfied with the Order dated 27.12.2011 passed by the respondents, *vide* which the petitioner was considered 'Unfit' for further service in the Border Security Force (in short, 'BSF'), and he was retired from the service with effect from 31.12.2011, with pensionary benefits in accordance with Rule 25 of BSF Rules, 1969 (in short, 'Rules').



2. The brief facts relevant for the disposal of the present petition are that the petitioner joined the BSF in the year 1990 as a Constable (GD). Upon successfully completing his training, on 17.07.1990, he was posted at the 146th Battalion, BSF, which was at that time stationed at Chuda Chandpur, Manipur. At the time of his joining, he was subjected to a thorough medical examination conducted by the Medical Board and found to be medically fit. It may be further relevant to note that during this period, he also won a Gold Medal in Shooting for his Battalion. Thereafter, when the petitioner was posted at Bhuj, Gujarat, due to the stress and strain of duty, he became unwell and suffered from depression, for which he was treated at the Psychiatric Hospital, Bhuj, Gujarat. Subsequent thereto, he was admitted to the Civil Hospital, Ahmedabad, and was sent to his native place on 54 days leave. Since the petitioner's ailment could not be cured, he was treated at various Hospitals, including the Institute of Human Behaviours and Allied Science, G.T. Road, Jhilmil, Delhi.

3. It is the case of the petitioner that faced with such a medical ailment and consequent circumstances, he made representations to the respondents to transfer him to Delhi so that he is able to avail regular treatment in Delhi, as the respondents were insisting that the petitioner should join his duty at Bhuj. In the first instance, though the respondents denied the petitioner's transfer to Delhi, ultimately, they acceded to the petitioner's request and directed him to appear before the Medical Board at Delhi. Upon examination by the Medical Board, he was found to be suffering from depression, and his Medical Category from 'AYE' was reduced to 'CEE' temporarily for a period



of six months, with effect from 20.01.2000.

4. On 05.04.2002, after being successfully treated, the petitioner rejoined his duty at the 42nd Battalion, Abohar, Punjab.

5. It is also the case of the petitioner that in the year 2003, an untoward incident occurred when, while on duty as a School Bus Driver, he dropped the son of a Senior Officer/Member of a Medical Board five minutes late to the said Officer's residence. Thereafter, the wife of the said Officer slapped and insulted him. When the petitioner complained about the incident to another Senior Officer, the said Officer threatened him. Subsequently, when the petitioner appeared before the Medical Board, of which the said Senior Officer was also a member, he intentionally and *malafidely* reduced the Medical Category of the petitioner.

6. Further, *vide* an Order dated 27.12.2003, the respondents had initiated departmental proceedings under Rule 173(8) of the Rules against the petitioner for allegedly tampering with an electric meter on 13.11.2003. However, *vide* an Order dated 06.02.2004, the respondents withdrew the Charges against him and stated that the letter dated 17.11.2003 issued in connection with the said Charge was cancelled.

7. Thereafter, on 31.01.2004, a Detailed Medical Examination of the petitioner was conducted at the Calcutta Hospital, where he was diagnosed with '*Bipolar Affective Disorder*', and was advised regular follow-ups, along with further evaluation after six months. He was also advised to perform light duties. Consequently, the petitioner was assigned '*light duty without arms*'.



8. The Medical Board constituted on 23.02.2011, reiterated its opinion that the petitioner was suffering from '*Bipolar Affective Disorder*' and he was declared 'Unfit' for further service in the BSF under Rule 25 of the Rules.

9. Upon a representation made by the petitioner on 18.07.2011, a Review Medical Board was constituted on 16.11.2011 at the CH Hospital, Jodhpur, Rajasthan, which upheld the findings of the Medical Board in its report dated 23.02.2011.

10. *Vide* the order dated 27.12.2011, the petitioner was Boarded Out from the BSF with effect from 31.12.2011, leading up to the filing of the present petition.

11. The learned counsel for the petitioner, in support of the submissions made in the petition, urges that the respondents have failed to consider the well-established position of law that since the petitioner was not diagnosed with any ailment at the time of his enrolment in the service and subsequently, therefore, any disability or deterioration in his health suffered thereafter is presumed to be due to his service in the BSF and the stress and strain attached thereto. In such a situation, the petitioner is entitled to Disability Pension, being invalidated from service on account of a disability attributable to or aggravated by service in a non-battle casualty. However, in the present case, the Medical Board has not furnished any reason for denying the disability pension for the Low Medical Category with which he was boarded out of service. To conclude, the learned counsel submits that the respondents have violated Regulation 173 of the Rules and committed gross injustice, adversely affecting the petitioner



and his family.

12. To substantiate his submissions, the learned counsel for the petitioner places reliance on the Judgments of *Union of India & Anr. v. Rajbir Singh*, 2015 SCC OnLine SC 119; *Neeraj Kumar Singh v. Union of India & Ors.*, 2017 SCC OnLine Del 9296, and *Mohan Lal v. Union of India and Anr.*, 2018 SCC OnLine Del 11948.

13. The learned counsel for the petitioner further submits that at the threshold, the magnitude and the degree of the ailment suffered by the petitioner does not disentitle him to continue in the service with light duties, thus, he could not have been invalidated from the service and is entitled for reinstatement. In the alternative, he submits that in case the relief of reinstatement is not granted in the favour of the petitioner, then the disability element of pension be provided with effect from the date of his discharge, along with interest at the rate of 18% per annum.

14. *Per contra*, at the outset, the learned counsel for the respondents raises a challenge to the maintainability of the present petition on the grounds of territorial jurisdiction as well as delay and laches. In support of this submission, the learned counsel places reliance upon the Judgments of the Supreme Court in *S.S. Balu and Anr. v. State of Kerala and Ors.*, (2009) 2 SCC 479; *Authorized Officer, State Bank of Travancore and Anr. v. Mathew K.C.*, (2018) 3 SCC 85, and *South Indian Bank Ltd. and Ors. v. Naveen Mathew Philip and Anr.*, 2023 SCC OnLine SC 435.

15. In rebuttal, the learned counsel for the petitioner submits that, in accordance with the Rules, the non-grant of disability element of pension is a continuing wrong, and thus, the petition cannot be



defeated on the grounds of delay and laches. He places reliance upon the Judgments of the Supreme Court in *M.R. Gupta v. Union of India and Ors.*, (1995) 5 SCC 628, and *Union of India & Ors. v. Tarsem Singh*, (2008) 8 SCC 648.

16. We have carefully considered the submissions made on behalf of the parties and perused the record.

17. To begin with, it may be beneficial for this Court to note the decision in *Rushibhai Jagdishbhai Pathak v. Municipal Corpn., Bhavnagar*, 2022 SCC OnLine SC 641, wherein the Supreme Court considered the doctrine of “delay and laches” and the “law of limitation” with respect to Service Law, and held as under:

“10.... At the same time, the law recognises a ‘continuing’ cause of action which may give rise to a ‘recurring’ cause of action as in the case of salary or pension...”

18. In this context, we may also refer to the decision of the Supreme Court in *Tarsem Singh* (supra), wherein it was observed that if an issue relates to payment or re-fixation of pay or pension, relief may be granted despite the delay, as it does not affect the rights of the third party.

19. It is trite law that delay and laches are relevant factors for the exercise of equitable jurisdiction, however, in view of the principle of law enunciated in the aforementioned decisions by the Supreme Court, we do not find merit in the objection raised by the respondents that the petition suffers from delay and laches.

20. Now advertent to the next issue raised by the respondents regarding the lack of territorial jurisdiction of this Court, the learned



counsel for the petitioner contends that, as far as the territorial jurisdiction is concerned, since a part of the cause of action has arisen within the jurisdiction of this Court and he, having addressed his representation to the respondent no.2, this Court would have the necessary jurisdiction to entertain the petition.

21. Having considered the submissions of the learned counsels for the parties to this effect, we are of the view that, taking into account the fact that the petitioner made a representation to the respondent no.2, it cannot be said that no part of the cause of action has arisen before this Court as the Headquarter of the respondent no.2 is situated in Delhi. Even otherwise, the petition has remained pending for more than 8 years before this Court, and therefore, it will be highly unjust to reject the same at this stage on the ground of lack of territorial jurisdiction. We, therefore, find no reason to reject the present petition on the ground of territorial jurisdiction.

22. The petitioner has been consistently found to be suffering from '*Bipolar Affective Disorder*'. Therefore, no infirmity can be found in the decision of the respondents to Board Out the petitioner from service.

23. This now brings us to the petitioner's claim for disability pension. The respondents assert that the claim of the petitioner for the disability element of pension is not maintainable, as his disability was neither attributable to nor aggravated by the service rendered by him in the BSF. The learned counsel for the respondents submits that a mere manifestation of a disease during Service, does not necessarily render it attributable to Service.



24. At this stage, it is relevant to note the observations made by the respondents in the Impugned Order, which are reproduced herein under:-

“OFFICE OF THE COMMANDANT, 192 BATTALION
BORDER SECURITY FORCE::
SRIGANGANAGAR(RAJASTHAN)

No. Estt-45/M.B/192Bn/2011/6363-85

Dated, the ___ Dec' 2011

/// **ORDER** ///

Whereas, No.902548321 Constable(GD) Manbir Singh 'G' Coy of this unit was under medical category S5H1A1P1E1 as well as 65% disability. As per medical Board proceedings held at 146 Battalion BSF, Udaipur (Rajasthan) on 23/02/2011, the individual is suffering from "**BIPOLAR AFFECTIVE DISORDER**" and is considered unfit for further service in Border security Force under Rule-25 of BSF Rule-1969 and;

2. Whereas, No.902548321 Constable (GD) Manbir Singh 'G' Coy of this unit was given an opportunity vide this office L/No.9157-59 dated 9th July'2011 to submit his representation if any against the opinion of Medical Board for his unfitness subsequently he represented against the opinion of Medical Board for re-categorization vide his application 18/07/2011 which was forwarded to SHQ BSF Sriganganagar vide this office L/No.4727 dated 13th Aug'2011 and SHQ BSF Sriganganagar further forwarded to FTR HQ BSF Rajasthan vide their L/No.3976-77 dated 30th Aug'2011 & L/No.9673-74 dtd 28th Sept' 2011.

3. Whereas, the review Medical Board was held on 16/11/2011 at CH Hospital, Jodhpur(Rajasthan) and re-examined No.902548321 Constable(GD) Manbir Singh 'G' Coy of this unit, is of the opinion that he is suffering from "**BIPOLAR AFFECTIVE DISORDER**" and considered him unfit for further service in BSF.

4. Whereas, I being the Head of Office, agreed with the findings of the medical board and satisfied that his further retention in the BSF is undesirable. I therefore, retire him from the service w.e.f **31st Dec'2011(AN)** with pensionary benefits as admissible under Rule-25 of BSF Rule-1969.

5. The dues outstanding if any, against him be recovered from the dues payable to him and he will be struck off the



strength of this Unit from w.e.f. 31st Dec'2011(AN).

Sd-
COMMANDANT
192 BN BSF
Dec' 2011''

25. From the above order passed by the respondents, it is evident that the Competent Authority ordered for the retirement of the petitioner from service, while conceding to the findings of the Medical Board and being satisfied that his retention in the service was undesirable. However, the Commandant did not consider the issue of whether the low medical condition of the petitioner was attributable to or aggravated due to his service condition.

26. The learned counsel for the respondents has emphasized that the Medical Board has opined that the petitioner's disability is neither attributable to nor aggravated by military service. He submits that the opinion of the duly constituted Medical Board, being an expert body, has to be respected and cannot be disregarded unless there is substantial evidence to demonstrate otherwise.

27. While it cannot be doubted that the Medical Board is an expert body, and its opinion is to be accorded due value and credence, it is incumbent upon the Medical Board, while rendering its opinion, to provide justification for denying disability pension. In the present case, the Medical Board has not given any finding regarding the causal effect of the petitioner's disability with his service, but has merely observed that on account of his disability, he is 'Unfit' to be retained in the Force service.

28. In such circumstances, it thus becomes imperative to examine



the medical record of the petitioner. Upon perusal of the record, we find that both the parties are *ad idem* that the petitioner has been suffering from ‘*Bipolar Affective Disorder*’ since 2004 and was placed under the medical category S5H1A1P1E1, with 65% disability. It is not disputed that at the time of enrolment of the petitioner in the BSF, he was subjected to a thorough physical test and other medical examinations, however, no ailment was diagnosed at that stage. Moreover, the petitioner was placed under strenuous training after his enrolment, and during the said period also, he did not exhibit any signs of the ailment.

29. This Court notes that the petitioner was regularly examined by the Medical Board at different intervals and has been placed under different medical categories. The categorisation of the Medical Examination of the petitioner is detailed hereinbelow:-

“Categorisation:

i) CEE (T) for six month w.e.f. 20.01.2001 by Medical Board

ii) S3(T-48) H1A1P1E1 w.e.f. 02.08.2002 by Medical Board

iii) S2(P)H1A1P1E1 w.e.f. 03.11.2004 by Medical Board

iv) S3(T-24)H1A1P1E1 w.e.f. 30.12.2006 by Medical board.

v) S5H1A1P1E1 w.e.f. 27.08.08 by Medical Board

vi) S3(T-48)H1A1P1E1 w.e.f. 07.03.2009 by Medical Board.”

30. It is further not disputed that on 19.05.2014, the petitioner was found fit to resume his duties, after having undergone treatment for anxiety disorder with effect from 18.10.2013 to 19.05.2014 at the



Chhatrapati Shivaji Subharti Hospital, Meerut, U.P, and upon completion of his treatment.

31. However, the petitioner was boarded out on medical grounds under the medical category S5H1A1P1E1 with 65% disability, as opined by the Review Medical Board. This Court notes that, on 16.11.2011, the Review Medical Board opined that the petitioner had developed the disability, that is, '*Bipolar Affective Disorder*', under circumstances over which he had no control. Undoubtedly, the Board had opined that the disability was neither directly attributable to the service condition of the petitioner and was further not aggravated by it, however, the finding of the Medical Board that the petitioner did not have a past medical history and the fact that nothing significant was found in his family history, could not have been brushed aside by the Board while recording its final opinion. Moreover, the Board should have also made an endeavour to find out the cause of the disease, specifically when it was convinced that the petitioner developed the disease due to the circumstances over which he had no control. It was, therefore, for the respondents to establish that there was no causal effect with the disability and service condition of the petitioner, but it failed to provide any reason for declaring the case of the petitioner as neither attributable to nor aggravated by his service condition.

32. We may now refer to the opinion rendered by the Medical Board as well as the Review Medical Board, which is being reproduced herein under:



1. Finding of the board: The board having examined No. 90254832 Rank CT Name Manbir Singh of 146 Bn BSF, IS of the opinion that he is suffering from "BIPOLAR AFFECTIVE DISORDER" and is considered unfit for further service.

- 2. Was the disability contracted in service? YES
3. Was it contracted in circumstances over which he had no control? YES
4. Is it directly attributable to conditions of service? NO
5. If so, by what specific conditions? N.A
6. If not directly attributable to service, was it aggravated there by and if so, what specific conditions? NO
7. Medical Category recommended S5H1A1P1E1
8. Percentage of disability 65%(Sixty Five percentage)
9. Period for which the above medical category is recommend PERMANENT
10. Further treatment/ investigation Required. AS ADVISED BY PSYCHIATRIST
11. Period of leave recommended(if any) N.A
12. Next board due on N.A
13. Fit/Unfit for civil employment. AS PER RULE

CO-OPTED MEMBER- Dr. D.M. Mathur PROF. & H.O.D, Dept. of PSYCHIATRY RN Medical College & Hospital, Udaipur (Raj) PLACE: 146 Bn BSF (Udaipur) Date: 22-2-2011

Presiding Officer: Dr. A.K.Shahi, CMO (SG) SHQ BSF SGNR
Member 1: Dr Marshal Murmu (CMO) 64 BN BSF, T/D 146 Bn BSF
Member 2: Dr. Naresh Kumar (SMO) 62 BN BSF.

The finding of the Review Medical Board is as follows:

OPINION OF THE BOARD

- 1. Findings of the Board:- The board having examined Regt No. 90254832 Rank Const Manbir Singh of 192 Bn BSF are of the opinion that he is Suffering from "BIPOLAR AFFECTIVE DISORDER " and is considered him UNFIT for further service in BSF
2. Was the Disability contracted in Service? : Yes
3. Was it contracted in circumstances over which he had no control : Yes
4. Is it directly attributable to conditions of Service : No
5. If so by what specific conditions - N/A
6. If not directly attributable to service, was it aggravated thereby, : No (If yes by what specific conditions)
7. Medical category recommended. : S5H1A1P1E1* detailed observation and justification as appendix-'A'
8. Percentage of disability : 65%
9. Period for which the above Medical category is recommended : Permanent
10. Further treatment/investigations required. : as advised by psychiatrist
11. Period of leave recommended if any. : N/A
12. Next Board due on. : N/A
13. Fit/Unfit for civil employment. : N/A

Presiding Officer: (Dr Ashish Kumar), CMO(SG) CH BSF JDR
Member-I: (Dr S Patondikar), CMO(SG) STC BSF JDR
Member- II: (Dr.Siddharth Deo) Surgeon, CH BSF JDR
Co-opted Member: (DR Lokesh Singh Sekhawat), Asstt Prof. Deptt. of Psychiatry , S N Medical College JDR



33. In this regard, we may refer to Rule 2 of the Guidelines for Conceding Attributability of Disablement or Death to Government Service [ref. Rule 3-A (2)] of Central Civil Service (Extraordinary Pension) Rules [CCS (EOP) Rules], which is reproduced herein under:

“2. In deciding on the issue of entitlement, all the evidence (both direct and circumstantial) will be taken into account and the benefit of reasonable doubt will be given to the claimant. This benefit will be given more liberally to the claimant in field service cases”

34. A bare reading of the aforesaid provision makes it clear that the benefit of reasonable doubt is to be given to the personnel claiming such entitlement, and this benefit is to be granted more liberally when the personnel is in field service.

35. The learned counsel for the petitioner submits that as per Schedule 1-A of the Central Civil Services (Extraordinary Pension) Rules, 1939 [in short, ‘CCS (EOP) Rules’], which lays down a list and classification of diseases that can be contracted or developed during the service, as also the list of diseases that are not affected by service, includes ‘*Psychosis and Psychoneurosis*’.

36. The Calcutta High Court in ***Union of India v. Rajat Kumar Ghosh***, 2012 SCC OnLine Cal 6967, discussed the various disorders that would fall under the ambit of “*Psychosis*” under Schedule 1-A of the CCS (EOP) Rules. The relevant extract is reproduced herein below:-



“16. Regarding refusal to grant disability pension, the issue is now being dealt with. The relevant rule is Central Civil Service (Extraordinary Pension) Rules. Under Rule 3(4), disease has been defined as disease mentioned in Schedule 1-A of said rule. Schedule 1-A contains the list and classification of diseases which can be contracted by the service holder wherein under clause ‘B’ different diseases affected by stress and strain, are mentioned.

xxxx

21. xxxx

Psychiatric disorders

Primary psychiatric causes of psychosis include the following: [10] [11] [12]

- *schizophrenia and schizophreniform disorder*
- *affective (mood) disorders, including severe depression, and severe depression or mania in bipolar disorder (manic depression). People experiencing a psychotic episode in the context of depression may experience persecutory or self-blaming delusions or hallucinations, while people experiencing a psychotic episode in the context of mania may form grandiose delusions.*
- *schizoaffective disorder, involving symptoms of both schizophrenia and mood disorders*
- *brief psychotic disorder, or acute/transient psychotic disorder*
- *delusional disorder (persistent delusional disorder)*
- *chronic hallucinatory psychosis. (Underline is of mine)*

History

The word psychosis was introduced to the psychiatric literature in 1841 by Karl Friedrich Canstatt in his work Handbuch der Medizinischen Klinik. He used it as a shorthand for ‘psychic neurosis’. At that time neurosis meant any disease of the nervous system, and Canstatt was thus referring to what was thought to be a psychological manifestation of brain disease. [80] Ernst von Feuchtersleben is also widely credited as



introducing the term in 1845, [81] as an alternative to insanity and mania.

The division of the major psychoses into manic depressive illness (now called bipolar disorder) and dementia praecox (now called schizophrenia) was made by Emil Kraepelin, who attempted to create a synthesis of the various mental disorders identified by 19th century psychiatrists, by grouping diseases together based on classification of common symptoms.

psychosis

Pronunciation:

noun (plural psychoses)

a severe mental disorder in which thought and emotions are so impaired that contact is lost with external reality:

they were suffering from a psychosis

[mass noun]:

the symptoms of psychosis”

37. It is relevant to note that the facts of the present case squarely fall within the ambit of the facts of the case titled ***Mohan Lal*** (supra).

The same reads as under:-

11. In our view reliance placed by learned counsel for the respondents on Schedule - IA of the Central Civil Services (Extraordinary Pension) Rules, 1939, which lays down a list and classification of diseases which can be contracted during the service as also a list of those diseases that are not normally affected by service, including diseases relating to eyes, would not be of any assistance to the respondents in light of the admitted position that the Medical Board had neither specified the nature of the eye ailment from which the petitioner was suffering at the time of his invalidation nor did the Board give any opinion regarding its attributability to or aggravation on account of service conditions.

12. In view of the admitted position that the eye ailment on account of which the petitioner



had been invalidated had arisen during the course of his service and in the absence of any reasons given by the Medical Board regarding the attributability or aggravation of the petitioner's disability, following the ratio of the decision in the case of Dharamvir Singh (supra), we have no hesitation in holding that the petitioner's disability has to be treated as a result of his service conditions.

38. In view of the above, 'Bipolar Affective Disorder' is liable to be covered under 'Psychosis' as per Schedule 1-A.

39. In light of the above, the disability of the petitioner had arisen during the course of his service and in the absence of any specific reasons recorded by the Medical Board regarding the attributability or aggravation of the petitioner's disability, we have no hesitation in holding that the disability has to be treated as a result of his service conditions.

40. As far as the decision in *Neeraj Kumar Singh* (supra) is concerned, it is distinguishable on its own facts as the Medical Board in the said case had clearly opined that the disability was aggravated due to service condition.

41. Regarding broad-banding of a percentage of the disability, we may turn to Rule 8(3) of the CCS (EOP) Rules, which is reproduced herein under:

“The extent of disability or functional incapacity shall be determined in the following manner for purposes of computing the disability element forming part of benefits:-



<i>Percentage of disability assessed by Medical Board</i>	<i>Percentage to be reckoned for computation of disability element</i>
<i>Up to 50</i>	<i>50</i>
<i>More than 50 and up to 75</i>	<i>75</i>
<i>More than 75 and up to 100</i>	<i>100</i>

42. The Review Medical Board has assessed the petitioner's disability at 65%. From the above-mentioned Rule, it emerges that the benefit of rounding off for disability pension is applicable to Force personnel who have been discharged, retired, or superannuated with a disability that is held to be attributable to, or aggravated by, military service.

43. Having considered the above, we direct the respondents to grant disability pension to the petitioner by taking his disability at 65% rounded off to 75%, and accordingly, release the pensionary benefits to him within a period of two months from the date of this order, along with interest at the rate of 6% per annum.

44. The petition, along with pending applications, if any, is allowed in the aforesaid terms.

SHALINDER KAUR, J

NAVIN CHAWLA, J

JUNE 12, 2025
SU/F