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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 16812/2022
EX-CONSTABLE VIRENDER SINGHPetitioner
Through: Mr. Virendra Singh Tomar,
Adv.
versus
UNION OF INDIA AND ORS.Respondents
Through: Mr. Farman Ali CGSC with
Ms. Usha Jamnal, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA
ORDER (ORAL)

% **09.02.2026**

C. HARI SHANKAR, J.

REVIEW PET. 486/2025

1. Various arguments have been advanced by Mr. Farman Ali, learned CGSC for the respondents to press this review petition.
2. Mr Ali, *inter alia*, seeks to rely on Rule 9(2)¹ of the Central Civil Services (Extraordinary Pension) Rules².
3. These are aspects which have already been pleaded in the writ petition and the pleadings therewith and which have been taken into

¹ 9. **Disablement due to Government service.—**

2. If the Government servant is boarded out of Government service on account of his disablement, the quantum of disability pension for cent per cent disability shall be as specified in Schedule II hereto annexed and the quantum of disability pension for lower percentage of disability shall be proportionately lower in accordance with the provisions of Rule 8.

² “the CCS (EOP) Rules” hereinafter



consideration while passing our order. However, Mr. Farman Ali has additionally sought to place reliance on the judgment of the Supreme Court in *Union of India v. Ajay Wahi*³ to submit that, as the petitioner had sought voluntary retirement from service, he would not be entitled to disability pension in terms of the CCS (EOP) Rules. He places reliance on para 18 of the said decision, which reads as under:

“18. Regulation 48 of the Regulations provides for disability pension to officers who are invalidated out of service on account of disability attributable to the military service and, therefore, such officers constitute a class in itself. Officers who retire voluntarily constitute a different class altogether and, therefore, the plea that when an officer is invalidated on the ground of disability attributable to the military service, there is no reason to deny such disability pension to an officer who seeks voluntary retirement does not appeal to us as in our opinion both constitute different and distinct classes. Article 14 of the Constitution frowns on discrimination but it permits reasonable classification. An officer who retires voluntarily and another who is invalidated out of service on account of disability attributable to military service constitute different and distinct classes.”

4. Mr. Ali submits that the appellant voluntarily retired from service and was, therefore, applying the law declared in *Ajay Wahi*, *ipso facto* disentitled to disability pension.

5. It is well settled that judgments of the Supreme Court have to be read as a whole and keeping in mind the exact controversy which was before the Court. One cannot pick out a paragraph from a judgment and read it in isolation. We deem it appropriate, therefore, to reproduce paras 14 to 19 of the aforesaid decision in *Ajay Wahi*, thus:

³ (2010) 11 SCC 213



“14. Rival submissions necessitate *examination of the scheme of the Pension Regulations. Section III of the Pension Regulations (hereinafter referred to as “the Regulations”) applies to all commissioned officers of the Army.* Regulation 48 of the Regulations which forms part of Section III, provides for grant of disability pension to an officer who is invalidated out of service on account of disability attributable to or aggravated by military service and Appendix II provides for the procedure for determination of the disability, the same reads as follows:

“48. *Disability pension when admissible.*—(a) Unless otherwise specifically provided a disability pension consisting of service element and disability element may be granted to an officer who is invalidated out of service on account of a disability which is attributable to or aggravated by military service in non-battle casualty cases and is assessed at 30 per cent or more.

(b) The question whether a disability is attributable to or aggravated by military service shall be determined under the rules in Appendix II.”

15. *Regulation 50 of the Regulations provides that an officer who retires voluntarily shall not be eligible for any award of disability pension, the same reads as follows:*

“50. *Officers who retire voluntarily.*—An officer who retires voluntarily shall not be eligible for any award on account of any disability:

Provided that officer who is due for retirement on completion of tenure, or on completion of service limits or on completion of the terms of engagement or on attaining the prescribed age of retirement, and who seeks premature retirement for the purpose of getting higher commutation value of pension, shall remain eligible for disability element.”

16. From a plain reading of Regulation 48 of the Regulations it is evident that unless otherwise specifically provided a disability pension shall be granted to an officer who is invalidated out of service on account of disability attributable to or aggravated by military service, whereas *Regulation 50 in no uncertain terms provides that an officer who retires voluntarily shall not be eligible for any award on account of any disability.*



17. Undisputedly, the writ petitioner has not been invalidated out of service on account of any disability attributable or aggravated by military service and *further his disability has not been determined under the Rules in Appendix II*. The writ petitioner had *sought voluntary retirement on medical ground* which was granted. *In the face of the language of Regulation 50 there is no escape from the conclusion that an officer retiring voluntarily shall not be eligible for disability pension*. Faced with this situation, the writ petitioner contends that Regulation 50 of the Regulations is discriminatory and thus violative of Article 14 of the Constitution of India.

18. Regulation 48 of the Regulations provides for disability pension to officers who are invalidated out of service on account of disability attributable to the military service and, therefore, such officers constitute a class in itself. *Officers who retire voluntarily constitute a different class altogether and, therefore, the plea that when an officer is invalidated on the ground of disability attributable to the military service, there is no reason to deny such disability pension to an officer who seeks voluntary retirement does not appeal to us as in our opinion both constitute different and distinct classes*. Article 14 of the Constitution frowns on discrimination but it permits reasonable classification. An officer who retires voluntarily and another who is invalidated out of service on account of disability attributable to military service constitute different and distinct classes.

19. Undisputedly, the writ petitioner has not been invalidated out of service on account of disability which is attributable to military service but retired voluntarily. Voluntary retirement can be sought and granted on many grounds, whereas an officer under Regulation 48 of the Regulations can be invalidated out of service on account of disability attributable to military service. It is to be borne in mind that if the employer despite disability attributable to military service does not invalidate an officer out of service, he continues in service with all the benefits and nobody can make issue of that. It is not the case of the writ petitioner that he was asked to seek voluntary retirement on the threat of being invalidated out of service. In fact, he had chosen to seek voluntary retirement on health ground which was granted and it was not the act of the employer to invalidated him out of service.”

6. Two clear features of distinction are apparent from the above passages from *Ajay Wahi*, vis-à-vis the facts before us.



7. Firstly, the respondent Ajay Wahi in the case before the Supreme Court was governed by Regulation 50 of the Pension Regulations applicable to the Army which clearly stated that an officer who retired voluntarily would not be eligible for any award on account of any disability. In these circumstances, the Supreme Court has noted that the Pension Regulations themselves carved out two distinct classes of persons; those who were entitled to disability pension and those who had sought voluntary retirement from service.

8. As against this, CCS (EOP) Rules, by which the petitioner is governed, does not carve out any exception which is similar to Regulation 50 of the Army Pension Regulations. Mr. Tomar has also drawn our attention to an Office Memorandum dated 3 February 2000 issued by the Department of DOPPW, which specifically envisages persons who suffered disability owing to causes which were attributable or aggravated by Government Service as falling in category B of persons entitled to disability pension and further stipulates, in para 3(III)(1), thus:

“III Disability Pension - for cases covered under categories B and C

(1) Normal pension and gratuity admissible under the CCS (Pension) Rules, 1972 plus disability pension equal to 30% of basic pay, for 100% disability.

(2) For lower percentage of disability, the monthly disability pension shall be proportionately lower as at present, provided that where permanent disability is not less than 60%, the total pension (i.e., pension or service gratuity admissible under the ordinary pension rules plus disability pension as indicated at (1) above) shall not be less than 60% of basic pay, subject to a minimum of Rs.2,500/-.”



9. Secondly, in *Ajay Wahi*, as noted in para 17 of the report in that case, there was no determination of the disability of Ajay Wahi in terms of the applicable Rules. As against this, in the present case, the certificate issued by the Indo-Tibetan Boarder Police reads thus:

“CONFIDENTIAL”

**INDO TIBETAN BORDER POLICE
MEDICAL BOARD PROCEEDING**

18. OPINION OF THE BOARD: Placed in Med Cat BEE (T) for 06 month
Wef 27/03/01

19. Was the disability contracted in Service? Yes/No

20. Is it strictly attributable to conditions of service? No

21. If not directly attributable to service was it
aggravated, if so by what specific conditions? **Yes due to stress &
strain of service**

Thus, here, there is a clear determination that the disability suffered by the petitioner was aggravated by his service in the ITBP.

10. In view of the aforesaid, we do not find that a case for review of our order is made out.

11. The review petition is dismissed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

FEBRUARY 9, 2026/ss