$~55

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

\+ W.P.(C) 13027/2025 & CM APPL. 53290/2025

UNION OF INDIA AND ORS .....Petitioners

Through: Mr. Shoumendu Mukherji, SPC, with Ms. Megha Sharma, Mr. Mehul Sachan, Advs and Major Anish Muralidhar

versus

SMT BABLI DEVI .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER(ORAL)

% 27.08.2025

C. HARI SHANKAR, J

1. This writ petition assails order dated 5 October 2023, passed by the Armed Forces Tribunal[1] in OA 861/2016.

2. By the said order, the AFT has granted a claim of invalid pension to the respondent who happens to be the widow of one Dalbir Singh, who was recruited in the Army and who was invalided out of service from 3 January 2005 on the ground that he suffered from "Schizophrenia".

[1] "AFT" hereinafter

3. Para 4 of the order passed by the Tribunal reads as under:-

> "The learned counsel for the respondents submits fairly *that the respondents had their own of recommended the grant of invalid pension to the solider and admitted the factum of the applicant's late husband having been invalided out from service initially due to ailments whilst in military service* and *does not refute or oppose the grant of invalid pension that would have been due to the applicant's late husband Sep. Dalvir Singh*."
>
> (Emphasis supplied)

4. Having specifically conceded, before the Tribunal, that Dalbir Singh was entitled to invalid pension, we failed to see, how the petitioner can come to this Court challenging the order by which the invalid pension, due to Dalbir Singh, was granted to the respondent.

5. Mr. Shoumendu Mukherji, learned Counsel for the petitioner submits that this writ petition has been instituted only because the question of entitlement to invalid pension is presently engaging the attention of the Supreme Court.

6. However, to a query from the Court, he acknowledges that there is no order passed by the Supreme Court expressing even a tentative view one way or the other on the aspect of entitlement to invalid pension.

7. In any event, we are not sitting in appeal over the decision of the Tribunal.

8. We are exercising *certiorari* jurisdiction under Article 226 of the Constitution of India. The parameters of such jurisdiction stands authoritatively delineated from the following passages of ***Syed Yakoob v K.S. Radhakrishnan***[2]**:**

> "7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court.* This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. *An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within*

[2] **AIR 1963 SC 477**

the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (*vide* ***Hari Vishnu Kamath v Syed Ahmad Ishaque***[3]***, Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam***[4] *and* ***Kaushalya Devi v Bachittar Singh***[5].

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; hut it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record*. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but *there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record*. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened."

(Emphasis supplied)

---

[3] **(1954) 2 SCC 881**
[4] **AIR 1958 SC 398**
[5] **AIR 1960 SC 1168**

9. Within the parameters of *certiorari* jurisdiction, keeping in mind the concession advanced by Union of India before the AFT as recorded in Para 4 of the impugned order, we do not find this to be case in which we should entertain our extraordinary jurisdiction under Article 226 of the Constitution of India.

10. The writ petition is accordingly dismissed *in limine*.

11. The petitioner is directed to comply with the impugned order passed by the Tribunal positively within a period of four weeks from today.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 27, 2025/*AT*