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

\+ W.P.(C) 14393/2024 & CM APPL. 60274/2024

UNION OF INDIA & ORS. .....Petitioners
Through: Mr. Premtosh Mishra, CGSC for UOI with Major Anish Muralidhar (Army)

versus

MAJOR GAURAV SHEORAN RETD .....Respondent
Through: Mr. Tejas Bhonge, Mr. B.K. Tiwari and Mr. Ajit Kakkar, Advs.

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

JUDGMENT (ORAL)

% 09.10.2025

C. HARI SHANKAR, J.

1. This writ petition assails order dated 21 April 2023 passed by the Armed Forces Tribunal[1] in OA 601/2022.

2. The respondent was the applicant before the Tribunal in OA 601/2022. He was commissioned in the Indian Army on 7 December 1996. He resigned on 10 July 2005 after serving 8 years and 7 months.

3. During this period, he suffered an injury to his knee, regarding

[1] "the Tribunal" hereinafter

which he was examined by a Release Medical Board held on 9 May 2005 which held that he was fit to be released on low medical category.

4. The RMB has given a specific finding that the injury suffered by the respondent was attributable to service and that the percentage of disability was assessed at 25% lifelong with qualifying element for disability recorded at 20%.

5. The respondent, in the circumstances, applied for disability pension consequent on his resignation. The request was rejected by the petitioner. Aggrieved thereby, the respondent approached the Tribunal by way of OA 601/2022.

6. By judgment dated 21 April 2023, under challenge in this writ petition, the OA stands allowed.

7. The Union of India assails the decision.

8. Mr. Mishra, learned CGSC for the Union of India, cites the judgment of the Supreme Court in ***Union of India v Ajay Wahi***[2].

9. ***Ajay Wahi*** was also a case in which the respondent Ajay Wahi had sought disability pension. In that case, too, there was a certificate by the Medical Board certifying that the ailments from which Ajay Wahi suffered were attributable to military service. However, the

[2] **(2010) 11 SCC 213**

dispute before the Supreme Court in that case was as to whether Ajay Wahi could claim disability pension in the light of Regulation 50 of the Pension Regulations applicable to the Army, which read thus:

> "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."

10. Thus, there was a specific statutory dispensation, in ***Ajay Wahi***, disqualifying a claim for disability pension in a case of a person who retires voluntarily from service. Keeping in mind this position, the Supreme Court has, in the following passages, from the said decision, held that, in the light of statutory bar to claim of disability in a case of voluntary retirement, the respondent Ajay Wahi could not claim disability pension:

> "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 invalided 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.
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> 17. Undisputedly, the writ petitioner has not been invalided 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 invalided 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 invalided 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 invalided out of service on account of disability attributable to military service constitute different and distinct classes.

19. Undisputedly, the writ petitioner has not been invalided 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 invalided 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 invalided 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 invalided 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 invalided him out of service.

20. We are of the opinion that the observation of the High Court that an officer cannot be denied disability pension on the ground of voluntary retirement suffers from fundamental error. Officers invalided out of service and seeking voluntary retirement, which can be on umpteen grounds, constitute a different and distinct class than invalidation from service on the ground of disability attributable to or aggravated by military service. It needs no discussion that a provision of the statute can be declared ultra vires only when it patently violates some provision of the Constitution. The regulation under challenge, in our opinion, does not suffer from any such error."

11. No such embargo to availment of disability pension applies to the petitioner, who resigned from service.

12. Thus, ***Ajay Wahi*** is clearly distinguishable on facts. We may in this context, recall the well-settled principle that a judgment of the Supreme Court is an authority only for what it states, and not for what may logically be deemed to proceed therefrom[3].

13. Moreover, we find that the aforesaid plea was specifically raised before the Tribunal, which has relied on its own earlier decision in ***Maj. (Retd.) Charanjit Singh Medi v UOI***[4].

14. Unlike ***Ajay Wahi***, ***Charanjit Singh Medi*** was a case in which the claim for disability pension was rejected specifically on the ground that the officer had resigned from service.

15. The Tribunal held, following the judgment of a Division Bench of this Court in ***Mahavir Singh Narwal v UOI***[5], that a claim for disability pension could not be denied on the ground that the officer had resigned from service, where the evidence otherwise indicated that the disability was attributable to military service.

16. The decision in ***Charanjit Singh Medi*** was carried in appeal to the Supreme Court by way of SLP(C) Diary No. 25998/2017[6], which was dismissed by the following order dated 11 September 2017:

> "UPON hearing the counsel the Court made the following

[3] **Bhavnagar University v Palitana Sugar Mill (P) Ltd and Ors.,(2003) 2 SCC 111**
[4] **2016 SCC OnLine AFT 202**
[5] **2005 (1) SL 1133 Delhi**
[6] **UOI v Maj (Retd) Chiranji Medi**

ORDER

> There is an inordinate delay of 464 days in filing the Petition which has not been explained satisfactorily. *Even otherwise, we do not find any merit in this Appeal.* The appeal is, accordingly, dismissed both on the ground of delay as well as on merits.
>
> Pending application(s), if any, shall stand disposed of."
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> (Emphasis supplied)

17. Thus, the Supreme Court dismissed the SLP against the judgment of the Tribunal in ***Charanjit Singh Medi***, not just on delay but also on merits. As the SLP was dismissed on merits, the judgement of the Tribunal merges with the order passed by the Supreme Court. There is, therefore, an approval, by the Supreme Court, of the legal principle that disability pension, in a case where the disability is admittedly attributable to military service, cannot be denied on the ground that the employee had resigned from service.

18. The fact that the disability suffered by the respondent was attributable to service is not contested by the petitioner.

19. As the issue in controversy stands covered by the judgment in ***Charanjit Singh Medi***, we find no error in the approach adopted by the Tribunal.

20. We are exercising *certiorari* jurisdiction and not sitting in appeal over the decision of the Tribunal. Within the limited parameters of *certiorari* jurisdiction, no case is made out for interference with the judgment of the Tribunal.

21. The writ petition is accordingly dismissed.

22. Let compliance with the order of the Tribunal be positively ensured within a period of twelve weeks from today. Arrears shall be restricted to three years prior to the date of filing of the OA before the Tribunal, following the judgment in ***Tarsem Singh v Union of India***[7]**.**

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 9, 2025
dsn/gunn

[7] **2008 (8) SCC 648**