



2025:DHC:10547-DB



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

+ W.P.(C) 5280/2022

C P TRIVEDI

.....Petitioner

Through: Mr. Ankur Chhibber, Mr. Nikunj Arora, Mr. Anshuman Mehrotra, Mr. Amrit Koul and Ms. Muskaan Dutta, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Vijay Joshi, CGSC with Mr. Kuldeep Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

26.11.2025

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C. HARI SHANKAR, J.

1. By the present writ petition, the petitioner challenges order dated 8 March 2022, whereby the petitioner's representation for grant of medical invalidation and disability pension was rejected by the respondents.

2. The petitioner was appointed as Assistant Commandant with the Border Security Force¹ in 1987. He was promoted as Deputy Commandant in 1993 and 2IC² in 2002.

3. On 30 August 2003, when carrying out an operation to flush out a militant from a house in Srinagar, he sustained multiple splinter injuries in his lower and upper limbs. He underwent surgery for the

¹ "BSF" hereinafter

² Second In Command



said injury at the Government Bone and Joint Surgery Hospital, Barzulla, Srinagar, Jammu and Kashmir and, thereafter, at AIIMS, New Delhi.

4. The disability that the petitioner suffered as a consequence of the aforesaid injury was initially assessed at 18% and the petitioner was placed in SHAPE-2 category. Subsequently, on 1 July 2005, the petitioner's disability was assessed at 50 to 54% of permanent nature and he was downgraded to SHAPE-3 category. He was paid a lump sum amount of ₹ 29,20,133/- as compensation.

5. The petitioner was, thereafter, detailed to lead an *ad hoc* battalion for election duty in Bandipura in Jammu and Kashmir and Gurej. These stations were located at high altitudes. The petitioner's assertion is that the injury that he had suffered was aggravated owing to his posting, for which the petitioner places reliance on a Court of Inquiry³ on 30 May 2020.

6. On completion of the COI, the petitioner was directed to be produced before the medical board for re-assessing his medical disability and suitability for being retained in service.

7. The medical board, in its report dated 22 June 2021, assessed the total disability of the petitioner as 58%. The petitioner was placed in S1H1A5(U)(L)P1E1, corresponding to SHAPE-5, and was declared unfit for further service in the BSF.

³ "COI" hereinafter



8. On 20 July 2021, the petitioner gave his consent for being boarded out of service as recommended by the medical board.

9. Instead of acting in terms of the recommendation of the medical board dated 22 June 2021, and boarding the petitioner out of service on that ground, the respondent constituted a fresh medical board, which again examined the petitioner and assessed his disability at 54% and placed him in S1H1A3(S)(U)(L)P1E1.

10. Despite this, the petitioner was not boarded out of service or granted disability pension as a result of which the petitioner approached this Court by means of the present writ petition. The prayer of the petitioner is for grant of medical invalidation and disability pension.

11. The matter had come up before a Coordinate Division Bench of this Court on 30 January 2025. The Coordinate Division Bench, after recording the submission of learned Counsel for the parties, observed as under:

“7. At the outset, we would note that the petitioner having obtained a lumpsum compensation for the injury suffered by him in the operation in 2003, would no longer be relevant to the present case as the petitioner has submitted that another officer, namely, Mr. N.N.D. Dubey, who had also been injured in the same operation and received a lumpsum compensation, was later boarded out from service and has been sanctioned disability pension on the condition that he shall surrender the lumpsum amount received by him earlier. He has placed before us a copy of Order dated 18.05.2023 in this regard. The same is taken on record. The learned counsel for the petitioner submits that he be accorded the same relief.



8. It is also not disputed that the Court of Inquiry in its report dated 30.05.2020, had given the following recommendations:

“6. In view of above, the Court recommends that:

(a) The severe back pain/jerk injury sustained by the Officer on 8th Nov & 30th Nov 2008 respectively, during Election duty at Bandipur (UT of J&K) and swelling and pain in left ankle joint developed in September 2013 due to effect of splinter lodged in foot/ankle may be termed as internal injury sustained by the Officer while performing duty in extreme cold climate and bad road condition of Bandipur-Gurez, the same be attributable to bonafide active Govt duty, for which nobody is found to be blameworthy.

(b) The Officer may be produced before the next Review Medical Board due on 25th Jan 2021 to assess his increased disability percentage, if any, on account of subsequent caused/aggravated injuries as specified above in para 6(a) and compensation for the increased disability and other entitled benefits including insurance claim may be granted to the officer under the provisions of relevant Rules after approval of CFA

(c) As regards granting of disability pension to the officer, if boarded out from services on medical ground during next review Medical Board i.e. on 25th Jan 2021, the same be granted subject to the recommendation of the Review Medical Board.”

9. Based thereon, a Medical Board was constituted, whose findings we have reproduced hereinabove, which had calculated the medical disability suffered by the petitioner as 58% and had also placed him in Shape-V medical category. The said medical report was not implemented only for the reason that it was not convened by a competent authority. It has not been shown to us that it suffered from any other infirmity.

10. The submission of the learned counsel for the respondents is that the petitioner had been wrongly granted 15% disability towards being a treated case of PIVD and only with pain. He submits that as per the medical guidelines, a treated case with persistent pain can at best be assessed at 10% disability.

11. We do not find any merit in the same. The second Medical



Board which was constituted by the respondents, has not stated if the petitioner's medical assessment for being a treated case of PIVD with pain, as assessed by the earlier Medical Board, was in any manner incorrect. In fact, the first Medical Board proceedings were not even placed before the second Medical Board. Still the Orthopaedic, who was co-opted member in the second Medical Board, expressly agreed with the opinion of the Orthopaedic Dr. Vaghera, who was a co-opted member of the first Medical Board and who had assessed the disability attributable to the petitioner for being a treated case of PIVD with pain at 15%. There was no note of disagreement with the said opinion by any of the members of the second board. In fact, the second Medical Board had also taken opinion from the other specialist to which our attention has been drawn. The said medical report also takes note of the fact that the petitioner is suffering from pain and also observed that "the patient is able to walk without support but gait is slow due to restricted movements and pain" and "poor coordination in both lower limbs due to pain, restricted movements and bilateral osteoarthritis knee". It also found deep tendon reflexes.

12. The relevant portion of the medical guidelines, which has been relied upon by the respondents, is reproduced herein under:

"Intervertebral Disc lesion:

i.	Treated case with persistent pain	10%
ii.	Treated case with persistent pain and instability	20%
iii.	Treated case with persistent pain and activities of lifting moderately modified	25%
iv.	Treated case with persistent pain and stiffness, aggravated by heavy lifting necessitating modification of all activities requiring heavy weight lifting	30%"

13. It is evident from the reading of the above that even a treated case with persistent pain is to be assessed as disability, and with further conditions, the percentage of the disability is to increase. We do not find the second Medical Board to have applied its mind to this condition. The second Medical Board seems to have been more swayed by the fact that the petitioner had earlier been assessed with the medical disability at 54%. It did not apply its mind if the medical disability of the petitioner had been aggravated with the passage of time, as was also noted by the Court of Inquiry.



14. Given the above facts, we direct that the petitioner be reassessed by a Medical Board to be constituted at Delhi by Army (Research and Referral) Hospital, New Delhi, which shall assess the medical disability of the petitioner and also opine if the petitioner was fit for being retained in service. The report of the Army (Research and Referral) Hospital be produced before us within a period of 4 weeks from today.

15. We request the Registrar of the Army (Research and Referral) Hospital, New Delhi to constitute a Medical Board especially consisting of a senior Orthopaedic.

16. The respondents shall produce the entire medical record of the petitioner before the Medical Board that is constituted by the Army R & R hospital, New Delhi.

17. The appointment of the petitioner to appear before the Medical Board shall be taken by the respondents and be informed to the petitioner through his counsel, at least a week in advance of the said date.”

12. Following the aforesaid directions passed by this Court, the petitioner was examined by a medical board of the R & R Hospital. However, the medical board did not return any finding on whether the petitioner was suffering from PIVD, which was a major constituent towards computing the percentage of disability of the petitioner, as already observed by this Court in its order dated 30 January 2025.

13. In these circumstances, this Court, by order dated 29 July 2025, directed that the petitioner be assessed by the team from the Department of Orthopaedics in the AIIMS to return a finding regarding the percentage of disability of the petitioner.

14. The petitioner has, subsequently, been examined by a duly constituted orthopaedics team of AIIMS, and the report dated 7 October 2025 of AIIMS has been placed on record. We reproduce the



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report, thus:

“ALL INDIA INSTITUTE OF MEDICAL SCIENCES
Ansari Nagar, New Delhi - 110029

No.F.2-75/Medical Board/2025-Estt. (H.) Dated: 07.10.2025

Sub: Report of medical board constituted at AIIMS for medical examination of petitioner Mr. C.P. Trivedi in compliance of order dated 29.07.2025 of Hon'ble Mr. Justice C. Hari Shankar and Hon'ble Mr. Justice Om Prakash Shukla, High Court of Delhi vide W.P. (C.)-5280/2022 titled C.P. Trivedi Versus Union of India & Ors.

A medical board has been constituted by the Medical Superintendent AIIMS, on subject noted above. The board consisted of the following members:

- | | | |
|--|---|--------------|
| 1. Dr. Bhavuk Garg
Professor, Deptt. of Orthopaedics | - | Chairperson |
| 2. Dr. Manoj Phalak
Professor, Deptt. of Neuro Surgery | - | Member |
| 3. Dr. Arun Kumar Choudhary
Asstt. Professor, Deptt. P.M.R. | - | Member |
| 4. Dr. Ankush Sharma
Department of Hospital
Administration | - | Member Secy. |

The meeting of the board was held on Tuesday, 07.10.2025 at 02:00 P.M. In Consultation Room No. 13, M.S. Office Wing, Ground floor, AIIMS, New Delhi.

All the members of the board were present. The board members examined petitioner Mr. C.P. Trivedi is a case of post multiple splinter injuries in both lower limb and right hand after the careful assessment of patient and records the medical board is of the opinion that the patient is having 58% (fifty eight percentage) of permanent physical impairment (disability).

(Dr. Bhavuk Garg)
Chairperson

(Dr. Manoj Phalak)
Member



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(Dr. Arun Kumar Chaudhary)
Member

(Dr. Ankush Sharma)
Member Secy.”

15. Thus, the AIIMS has confirmed the initial diagnosis of the petitioner having suffered 58% permanent impairment/disability consequent to the injuries which were suffered by him.

16. Mr. Joshi, learned CGSC for the respondents, vehemently objects the Court placing any reliance on the report dated 7 October 2025, extracted *supra*.

17. He submits that, unlike the report of the R & R Hospital, the report dated 7 October 2025 does not have any detailed calculations and does not explain the manner in which the figure of 58% of permanent physical disability had been arrived at.

18. We are unwilling to accept this argument. The report of AIIMS is from a team of Senior Faculty Members of the Department of Orthopaedics. AIIMS is an institute of excellence and we have no doubt that the Members of the Department of Orthopaedics are well aware of the manner in which physical disability of a person who has suffered splinter injuries is to be assessed.

19. Moreover, we find, from the report dated 7 October 2025, that the assessment of 58% of permanent physical impairment has been returned after the Orthopaedics team examined the petitioner and carefully assessed not only his physical condition but also the records of the medical board.



20. It is not the respondent's case that the AIIMS was, in any way, trying to favour the petitioner.

21. Courts have to give due heed and deference to the experience of medical professionals in cases such as this.

22. In that view of the matter, we find that the petitioner would be entitled to be treated as having suffered 58% permanent physical disability as a result of the splinter injuries which he had sustained in the anti-insurgency operations at Srinagar.

23. Resultantly, the decision to not to medically invalidate the petitioner out of service and grant disability pension to the petitioner on that basis cannot sustain on facts or in law.

24. Accordingly, we uphold the petitioner's right to have been medically invalidated out of service as he had suffered 58% permanent physical disability consequent to the splinter injuries sustained by him while on duty at Srinagar.

25. Admittedly, this extent of disability would entitle the petitioner to disability.

26. At this juncture, Mr. Joshi intervenes to advance further submissions. He first submits that the petitioner that suffered an initial injury in 2003 and that the COI which was ultimately convened in 2020 was only because of an aggravation of the said injury. He



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submits that, between 2010 and 2020, when the COI was convened, the petitioner had been examined four times and had been assessed at 54% disability on each occasion, which the petitioner did not challenge.

27. He submits that the Medical Board which was constituted on the basis of the recommendations of the COI, was disapproved on the ground that it was not duly constituted.

28. We find it strange that such submissions are being advanced to contest the case of grant of disability pension to an officer who sustained injuries while defending the country at the borders. We are, further, not inclined to revisit these issues, which were already urged and considered by an earlier Division Bench of this Court, following which the re-examination of the petitioner was directed.

29. We say no more.

30. The issues which Mr. Joshi now seeks to re-argue are no longer open for our consideration as it is after considering all these factors that the Court directed the petitioner to be re-examined by R & R Hospital by order dated 30 January 2025. As the R & R Hospital had not considered the PIVD suffered by the petitioner, he was directed to be re-examined by the AIIMS. The AIIMS has now assessed his extent of disability at 58%.

31. We feel that the dispute deserves, at least now, to be laid to rest.



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32. We accept the finding of the AIIMS that the petitioner suffered permanent disability to the extent of 58% as a result of the splinter injuries which he had suffered in 2003 and which were aggravated by his subsequent postings, as we have already noted hereinabove.

33. The petitioner would, therefore, be entitled to disability pension.

34. Accordingly, the writ petition is allowed. The order dated 8 March 2022 is quashed and set aside.

35. We direct that the disability pension to which the petitioner would be entitled, be assessed and paid to the petitioner within a period of eight weeks from today. The amount which the petitioner has been paid by way of lump sum compensation would be returned by the petitioner to the respondent on the respondent disbursing disability pension to the petitioner.

36. For the purposes of compliance with this order, the respondents would fix a date of invalidation of the petitioner out of service.

37. The writ petition stands allowed to the aforesaid extent with no orders as to costs.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

NOVEMBER 26, 2025/AR