

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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COCP No.1802 of 2018

Date of Decision: 30.05.2018

Ex Nb Sub Gopal Das

...petitioner

Versus

Smt. Sanjeevane Kutty, Secretary (ESW)

...respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Naresh Ghai, Advocate
for the petitioner

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner has approached this Court under Section 11 of the Contempt of Courts Act, 1971 (Section 12 to be read in) for initiating contempt proceedings against the respondents for retarding the implementation of this Court's order dated 13.07.2001 passed in CWP No.11362 of 2000 whereby his claim for disability pension @ 75% was allowed. The orders dated 05.03.1998 and 01.12.1999 declining disability pension to the petitioner were quashed not being sustainable in law. A direction was issued to grant disability pension to the petitioner on the basis of disability suffered by him. The right was a recurring one causing financial loss with the passing day. The arrears were to be paid within three months from the date of fixing of disability pension with interest on arrears @ 12% per annum etc. The petitioner served in the Indian Army. It was thus incumbent upon the Union of India/ Army authorities and its agencies to scrupulously comply with the order dated 13.07.2001, but sadly that has not been done.

The petitioner has explained delay in para 2 of the petition of

his own disability, the human condition and the predicament he faced when his son is said to have lost his mind during recruit training on selection to the Army and had to be sent back home adding further woes to the aged father. It is for these reasons he says he lost contact with his counsel and “of everything”. He avers that it was only on being reminded of his right by his relative that he gathered himself and served the legal notice upon the respondents to settle his grievance, and in these circumstances the petition has been filed. The right to disability pension being recurring cause of action, the provisions of Section 20 of the Contempt of Courts Act, 1971, would not apply as there will be no bar in initiating contempt proceedings.

However, looking to the fact that the subject matter would normally fall in the jurisdiction of the Armed Forces Tribunal, being an army case as urged by the counsel, this case is transferred to the Armed Forces Tribunal, Chandigarh Bench, Chandimandir, for it to consider on merits and without being influenced by this order to treat the petition as an execution application and subject to its jurisdiction, consider the matter.

With these observations and without expressing any opinion on facts and law, the petition stands disposed of.

Office to send the file complete in all respects to the Armed Forces Tribunal, Chandigarh Bench, Chandimandir forthwith. Petitioner to appear in person or through counsel before the Tribunal on 02.07 2018.

30.05.2018

*neenu***(RAJIV NARAIN RAINA)
JUDGE**

Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No