

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

SWP No. 1128/2003
IA No. 01/2017
IA No. 1164/2003

Pronounced on:- 29.05.2020

Janmez Singh ...Petitioner(s)

Through: Ms. S. Kour, Sr. Advocate with
Ms. Manpreet Kour, Advocate

vs.

Union of India and others ...Respondent(s)

Through: Mr. Rajesh Thappa, CGSC

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT

1. Petitioner, a head constable in BSF, was injured in a bomb blast while on duty. He thus, has approached this Court seeking direction to the respondents for consideration of his case for release of his disability claim, insurance claim, and to consider his claim under the '*Seema Parhari Beema Yojna*'. He also seeks a direction to the State Government to pay him ex gratia relief as paid to the injured in militancy attack and lastly to consider him for promotion to the next higher post of Sub-Inspector.
2. Briefly stated the facts in the case are that 'petitioner while on duty 105 BN on 03.08.1992 was escorting a patient referred to Civil Hospital, Batala for treatment when they were attacked while on their way to hospital at village shikar Machian, Dera Baba Nanak-Batala Road. The leading vehicle was blasted by the extremists by high power explosion due to which 7 BSF personnel were killed and 04 including the petitioner were injured. All the injured persons were evacuated and

shifted to Civil Hospital, Batala for treatment and thereafter SGTB Hospital, Amritsar.’

3. The grievance of the petitioner is that he has not received any compensation, insurance claim or disability claim, as well as medical expenses which he has incurred on his treatment. According to him, he has not been promoted due to the injury suffered by him. Therefore, he submitted a representation to the respondents for granting him these reliefs but till date respondents have not taken any action on the same. It is further submitted that State of Punjab has also formulated a scheme of ex gratia relief for persons injured in a militancy related operation and the same may also be granted to him.
4. Petitioner also seeks a direction to the respondents to consider him for promotion as Sub-Inspector without qualifying the physical test as he is placed in low medical category. In their reply, respondents submitted that the petitioner does not qualify basic conditions for promotion such as qualification course, therefore, he could not be promoted.
5. Promotion to the post of Sub-Inspector requires fulfillment of the following conditions:-
 - “(i) Educational qualification Matric/10th pass or equivalent;
 - (ii) MR Std-I;
 - (iii) Medical Category - SHAPE-I;
 - (iv) Platoon Comdr. Course.”
6. Petitioner having passed 8th standard lacks the educational qualification, beside as per respondents he has also not qualified the other requisite qualifications like Platoon Comdr. course & map reading course,

therefore, his non consideration for promotion cannot be faulted.

7. Respondent Nos. 1 to 4 in their reply have admitted that the petitioner was injured as a result of blast alongwith other persons while escorting a patient who was referred to Civil Hospital, Batala . According to them, the petitioner had fractured his left arm in the said accident. They, however, categorically denied that he has suffered any disability. Subsequently as per the medical record of the petitioner, he was placed under low medical category for CEE (T) for “caries right hip joint” and “epilepsy” with effect from 05.03.1993 but these, according to the respondents, are contributing to the associating medical disorder and not the injuries suffered by him during the course of his duty. This apart the medical expenses as raised by the petitioner according to the respondents have been paid. It is also submitted by the respondents that since the Central Government Employees Group Insurance Scheme covers only death case, the same does not apply to the case of the petitioner. Respondent No. 5 was set ex-parte vide order dated 26.03.2004.

8. Though the claim of the petitioner is to release compensation, disability pension as has been given to similarly situated persons. However, no material has been placed on record by him to show the same. No details of the persons, who have received such benefits has been placed on record. This apart, there is no disability certificate on record to show the percentage of disability suffered by the petitioner. Stress has been laid on the Seema Parhari Beema Yojna scheme under which the petitioner wants relief to be granted, however, the same cannot be granted to him in view of the fact that Seema Parhari Beema Yojna scheme was introduced in BSF in the month of September,1993 while the injuries

suffered by the petitioner occurred on the intervening night of 03.08.1992, i.e., before the scheme came to be introduced, thus he cannot claim the benefit of Seema Parhari Beema Yojna. He is also not entitled to any relief under central Government Employee Group Insurance Scheme as he was not covered under the same.

- 9.** Petitioner has not been able to place any document on record to prove that he has suffered injures as a result of blast which has resulted in disability to be covered under any insurance scheme, or entitlement to any ex-gratia relief which can only be granted on account of the disability suffered by him.
- 10.** In view of the aforesaid, there is no merit in this petition which is accordingly **dismissed** alongwith IAs.

(Sindhu Sharma)
Judge

JAMMU
29.05.2020
SUNIL-II

Whether the order is speaking:	Yes
Whether the order is reportable:	Yes/No