STRANGE PARADOX IN TREATMENT OF DISABILITY CASES IN CIVIL EMPLOYMENT AND ARMED FORCES

Disability is not decease but a physical impairment which may occur any time from birth till death. The number of cases is estimated to be three percent of our population. This article is not to deal with disability issues in entirety but to briefly bring out the paradoxical treatment of disability cases amongst civil employees vis –a-vis armed forces personnel. The disability act of 1995 lays down how the disabled employees will be treated and the provisions the Govt must make for such people.

All disabled Govt employees less Defence Forces enjoy full protection with regard to their job and emoluments irrespective of the physical condition, if disability occurs during service. Any disability occurring during service period which are mostly accidents will be treated as attributable to the service, disregarding circumstances of occurrence as per the ruling of the Supreme Court. No employee can be discharged from service or service terminated under any circumstances and will be afforded an opportunity to serve upto the specified age of retirement. If an employee cannot perform any type of duty such person may be kept even on supernumerary strength till superannuation. The disability will be assessed by a medical board constituted by Govt doctors who will award the percentage of disability. Such employees on retirement are entitled to disability pension in proportion to the degree of disability awarded by the medical board, in addition to the service pension. Based on the broad banding principle, the degree of disability from 20 to 50% will be treated as 50%, from 51 to 75% as 75% and beyond that as 100%. A 100% disabled is entitled to a disability pay of 30% percent of the last pay drawn and proportionately reduced for lesser degrees of disability as given above. Incase an employee dies in service a suitable Govt job will be provided to one of the dependents.

Since the provisions of disability act 1995 are not applicable to the defence forces, they enjoy no protection what so ever with respect to job security and employment. Suitable provisions should have been made for the armed forces too keeping the service conditions in view. In the defence forces there are two types of disability cases. The first one is the war injury in the declared areas of operation and the second one is any disability other than war, which mostly occur in field, high altitude, uncongenial areas, during training, in times of aid to civil authorities or disaster relief. All such casualties on occurrence are admitted to military hospitals for treatment and recuperation. When a patient is found to be fit for discharge from the hospital a medical board is held to assess the degree of disability if any. A soldier can be channelized back into service if he can be suitably employed or otherwise he is invalided out of service with minimal benefits as compared to civilian Govt employee. Every serving soldier has also to go through a release medical board before superannuation which is independent of the earlier medical board, which finally awards the disability percent if any. All such medical board proceedings are reviewed by superior medical officers in the chain and finally approved at the Command/Service headquarters level, before a proclamation of final award. This ensures proper checks and balances in the degree of award and there cannot be any partiality or manipulation as believed in some circles in the MoD. Their perception is probably based on their own experience in civil employments, where such mal practices have a high degree of probability.

During the 7CPC it is learnt from the environment that that the MoD provided statistical data of disability personnel of the armed forces to prove that there is a spurt in the number of disability cases due to manipulation, particularly amongst officers, to claim disability pension on superannuation, to the discredit the officers cadre by a comparatively junior officer of the Defence accounts services serving in MoD. The Chairman of the 7 CPC heavily relied on him to decide on the disability pension of service personnel and complimented him for his professional competence and acumen in providing authentic statistical data. This resulted in grant of disability pension to the defence services personnel based on a slab system as against percentile for civilian Govt employees, violating the prevailing practice of percentile as per 6 CPC award and the principle of equality. This issue is discriminatory and adversely affects the morale of defence services personnel. Besides it cannot stand the scrutiny of law of equality. To cite one example, a 100% disabled secretary level officer in the defence services is entitled to a disability pension of Rs 27000.00 pm as against Rs 67500.00 to the secretary of the Govt of India. A secretary if at all becomes disabled; it is likely to be due to a road accident in a cosmopolitan city. The only exemption is with regard to the Central Armed Police Force(CAPF) personnel (BSF, CRPF, ITBP,SSB etc),who may also be deployed along side defence forces for internal security duties. The defence service officer of equivalent status in all likelihood will be a victim of helicopter crash or accident while carrying out operational reconnaissance or visit to forward troops. Similarly there is a wide and unfavorable disparity in the disability pension of all ranks from a jawan to a Lt General between a civilian employee and defence employee, for the same degree of disability because of the slab system. However the disability pension of the war injured known as the war injury element has not been affected, as per the report.

Coming to statistics, the disability amongst officers is certainly high as compared to other ranks. It is a known fact that the Indian armed forces officers lead from the front unlike other uniformed services. Even in the fatal cases the percentage of officers casualties is roughly 15 times high in proportion to their strength, both in war and peace. Besides we have been fighting an intense internal war in the J&K and NE states for decades and therefore statistically the number of officers disability is bound to increase. The officers also serve longer as compared to the other ranks. Other disability cases like hypertension, mental impairment, arthritis, schizophrenia etc are manifested subsequently and these are reflected through the release medical board proceedings. Unfortunately the chairman and other members of 7CPC failed to see the dexterity of the defence accounts officer who convinced them with pure statistics to arrive at a decision, detrimental to the welfare and morale of soldiers, who pledges their life to the Nation. The Chairman sarcastically said during a TV discussion that the “defence personnel are living in their own world”, which infact is a statement of fact. There is no other known services in the world as exacting as the military. The meager military services pay, which is again based on a slab system, cannot a substitute for all other disadvantages a service person faces compared to civil employment. The least a soldier expects from the chairman who served in the principal bench of the AFT, and the bureaucracy dominated CPC with no defence services representative, is to provide comparable emoluments and allowances to soldiers. One of the important factors in maintaining high morale of soldiers is meeting the materialistic needs and comparable pay and allowances fall in it’s ambit.

As per the available information even the anomaly committee of secretaries has not touched this glaring aberration which is even visible to a layman. It is incumbent on the RM and the MoD bureaucracy that this issue is resolved immediately by reversing the decision for better civil military relations, maintenance of morale and avoidance of legal cases. There is also an immediate need to take up a case for an amendment to the Disability Act 1995, incorporating provisions for Armed Forces as they too are citizens of this country and not bequeathed their civil rights even after retirement.

All the military disabled on superannuation or on being invalided must be absorbed in civilian defence establishments like DRDO, Ordnance Factories, Armed Forces Headquarters Services, Defence Public sector undertakings etc by suitable statute. At least one depended of the fatal cases must be provided with a suitable employment in any of the above organizations, as in other civil services.

At present the war injured are given two different scales of war injury pension, for the same degree of disability which again is legally not tenable. The invalided get a war injury pension of 100%, whereas the superannuated are admitted only 60% of the pay. Since the disability pension is only after retirement for both the invalided and superannuated, they should not be categorized differently. The Hon’ble Supreme Court as well as the services pension regulations clearly stipulates that all superannuated will also is considered as invalided for the purpose of disability pension. Therefore this anomaly also needs immediate rectification which the services and MoD refuse to comply with unjustifiable logic. This will result in avoidable and unaffordable legal cases by disabled soldiers.

It is only in our country where the soldiers face much harassment in terms of pay and allowances at the hand of bureaucracy. The section officers, desk officers, under secretaries and deputy secretaries who originate minutes on various issues seem to have a developed a negative attitude towards soldiers and the superior officers like directors, joint secretaries, additional secretaries and secretaries either have no time or are deliberately ignoring the nefarious designs of these low level functionaries, who wield authority without accountability. Our ministers also find themselves helpless in the hands of bureaucracy. Resultantly the defence personnel continue to suffer. The situation can only be remedied with the total reorganization of the MoD staff based on the recommendations of the Kargil review committee or Naresh Chandra committee, all of which appears to have been consigned to the No action required almirah in the MoD. Unless the RM/PM takes it personally on them, no reforms will ever take place in the Defence Forces. The bureaucracy will always raise the issue of non existing military coup to prevent erosion of their turf and slight the military. All other issues have no relevance to them, as experienced from the days of independence.

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