

FORM NO. 4

**(See Rule 11 (1))
IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH**

ORDER SHEET

13.

O.A. No. 301 of 2010

Ex. Nepal Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Yogesh Pachauri, Advocate.

For respondents: Mr. Mohan Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

Notes of the Registry	Orders of the Tribunal
27.08.2012	Order passed vide separate order sheet is placed on record. Petition is dismissed. No costs.

**A.K. MATHUR
(Chairperson)**

**S.S. DHILLON
(Member)**

**New Delhi
August 27, 2012
dn**

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
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HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER

27.08.2012

1. The Petitioner was enrolled on 1st November 1997 in Territorial Army and he joined Parachute Regiment and on 22nd June 2007 became a low medical category but he was promoted to the post of Havildar on 30th June 2007. Then on 12th October 2007 a show cause notice was given to him about his low medical category (P-2) and thereafter he was discharged from service on 26th February 2008. He has only put in 6 years and 61 days embodied service.

2. The grievance of the Petitioner is that he has been discharged on suffering from diabetes which is considered to be a low medical category P-2 (Prmt.) as per the Medical Board Recommendations. Since he was low medical category (P-2) he was discharged from service and hence he filed the present petition.

3. A reply has been filed by the Respondents and the Respondents have invited our attention to the Government of India, Ministry of Defence letter No.

A/08693/AG/PS4(A)5304/PEN-C dated 17 May 1965 as amended by the order dated 21 February 1996 which deals with 'Disposal of low medical category Territorial Army personnel and their entitlement to disability pension' and reads as under:

“1. I am directed to say that the President has been pleased to decide that personnel of the Territorial Army who are placed permanently in a low medical category other than 'E' (A) will be discharged from the service. They will be deemed to have been invalided out of service for the purpose of para 1 of the Post March 1948 Entitlement Rules and their claims to disability pension will be dealt with under the normal rules and disability pension will be granted to them, if otherwise admissible.

2. Personnel referred to in para 1 above who are found to be ineligible for the grant of disability pension will be paid terminal gratuity for their qualifying service under the conditions and at the rate laid down in Regulations 318 and 319, pension Regulations for the Army Part (1961).

3. This issues with the concurrence of the Ministry of Finance (Defence) vide their uo No. 1293-FP of 1965 and No. 589-FP of 1966.”

4. As per this directive of the Government of India, a person who is in the low medical category i.e. (P-2) then such services of such person should be discharged and that procedure of discharge has been given in the Annexure R-1 i.e. Army Order 460/73. Therefore, the Petitioner having been rendered in low medical category (P-2), his services were discharged in terms of the

aforesaid letter. Since the person who has been rendered in low medical category (P-2) then such persons cannot be retained in Territorial Army as per the aforementioned letter of the Government of India. Consequently, he has been discharged from service. Hence, we do not find any illegality in it. Therefore, the petition is dismissed.

5. Learned counsel for the petitioner submits that the Petitioner is bed-ridden and no medical facility has been extended to him. It is true that since he has not acquired the status of Ex-Army Personnel, he will not be technically entitled to any medical facility but looking to the facts of this case that the Petitioner has served for more than 6 years and 61 days in the Territorial Army, let necessary medical assistance may be provided to him on humanitarian ground.

6. With this observation, the petition is dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
August 27, 2012
dn