

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

29

OA 8/2021 with MA 1/2021

HFO Gajendra Nath Tiwari (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Mr. K K Tyagi, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
28.04.2023

The applicant in the instant case seeks grant of disability element of pension in relation to the disability of DM Type-2 which has been assessed @ 15-19% from the applicant praying that disability element of pension should be granted. It is submitted that the same could not have been assessed at less than 20% with reliance having placed on record on behalf of the applicant on communication dated 20.07.2012 no. 16036/DGAFMS/MA (Pens)/Policy with also reliance placed in relation thereto on the order dated 23.03.2023 in OA 667/2022 of the AFT, RB, Lucknow in which vide Para 8 thereof which reads to the effect:-

“8. On careful scrutiny of the documents, we find that the RMB has assessed the applicant's disability @ 15-19% for life as aggravated by service. In this regard when we see the said provisions, we observe that as provided in the letter no. 16036/DGAFMS/MA (Pens)/Policy dated 20.07.2012 issued by the Office of the

DGAFMS, 'M' Block, Ministry of Defence, New Delhi the degree of disablement in case of Diabetes Mellitus (DM) Type – II cannot be assessed less than 20%. Therefore, we are of the view that applicant's disability should be assessed @ 20% in accordance with rules/guidelines on the subject, issued by the Ministry of Defence”

There is a mention of the very communication dated 20.07.2012 relied upon on behalf of the applicant.

It is essential to observe that vide this communication dated 20.07.2012 it is indicated that this communication was sent by the Dy DGAFMS (Pension) to the MoD for pension policy for concurrence.

It is essential to ascertain whether the said concurrence in relation to the said disability has been accorded by the MoD.

Time is sought on behalf of the respondents in relation thereto, which clarification be so placed on record within two weeks.

Re-list on **30.05.2023**.

Copy of this order be given **DASTI**.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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