

**COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

16.

OA 726/2015

Ex Sub Maj (Hony Capt) Applicant
Suresh Chandra Pathak
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. V S Kadian and
Mr. J P Sharma, Advocates
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

HON'BLE MS. JUSTICE ANJANA MISHRA, MEMBER (J)
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER
06.07.2023

OA 726/2015

We have heard learned counsels on both sides on the grant of disability pension to the applicant.

2. Learned counsel for the applicant submits that the applicant was originally granted part of annual leave from 10.06.1987 to 27.07.1987. That on 24.07.1987, as the applicant was commencing his return journey from home back to the unit, he got injured in his eye and was admitted to MH Allahabad. On termination of his hospitalisation, the applicant was granted 14 days sick leave and on return was placed in LMC E2 (Temp). The counsel further added that prior to his retirement, the applicant was brought before a

RMB which assessed the disability Perforating Injury with Traumatic Catract (Left Eye) at 11 to 14 % and held it as not attributable nor aggravated by miliatary service. The counsel asserted that since the applicant had been injured while proceeding back to his unit on termination of annual leave, the injury was, therefore, required to be considered as attributable to military service. Drawing our attention to the impugned order at Annexure A-1, the counsel further stated that the diability claim had been rejected by PCDA(P) on the grounds that the injury was sustained whilst on leave.

3. On a query by the Court as to whether indeed the applicant was scheduled to travel on that date, learned counsel for the applicant submits that while he did not have the ticket or any other documents in support thereof, he produced in Court a copy of the letter dated 14.11.2003 from Signals, Records to PCDA, Allahabad wherein the disability claim had been forwarded. On examination of this letter it is seen that in the absence of an injury report, the statement of the individual had been attached in original. However, no copy of the individual's statement was found attached with the letter produced by the counsel.

4. The counsel for the respondents stated that the applicant had been originally granted part of annual leave

from 10.06.1987 to 27.07.1987. However, consequent to his sustaining the eye injury and being admitted to MH Allahabad on 24.07.1987, the leave period was ammended as 10.06.1987 to 23.07.1987, so that his admission and subsequent sick leave were correctly regularised. The counsel also asserted that even if the appicant was considered as being on duty and the injury was held attributable to military service, the applicant was still not entitled to disability pension since the disability had been assessed at less than 20%; at 11-14%.

5. Having heard both parties, the respondents are directed to obtain a complete copy of the latter dated 14.11.2003, along with all the attachement originally forwarded to PCDA(P) including the statement of the applicant and various medical documets.

6. List again on 11th August, 2023. To retain its position on that day.

(ANJANA MISHRA)
MEMBER (J)

(P. M. HARIZ)
MEMBER (A)