

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

30.

OA 1203/2020

JWO BD Pandit (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT. GEN. C.P. MOHANTY, MEMBER (A)

ORDER
18.01.2024

On behalf of the applicant learned counsel for the applicant submits that the prayer made through the present OA is confined to seeking the grant of the disability element of pension based on aggravation of the disability and that the prayer is not premised on seeking the grant of the disability element of pension on attributability of the disability. The re-categorisation Board qua the applicant on the date of injury dated 15.07.2010 be produced by the respondents on the next date of hearing

The respondents shall also clarify the discrepancy as brought forth through annexure A4 placed at page 93 annexed to the counter affidavit wherein it has been stated to the effect :-

“Individual sustained injury on 15 Jul 2010 in an RTA when he slipped from his motorcycle after being hit by a four wheeler. He was coming back from the market. The indl was optd for his injuries and managed well. He was place in appropriate LMC suitable employability

restrictions. The injury report as well as the COI has held the injury as non attributable to service. At the time of RMB the individual had no functional deficit or deformity of right hip joint. He had no deformity or functional deficit of right knee except for mild laxity of MCL.”
emphasis supplied....

which is in contrast to the certificate under Para 796(C)(ii) wherein it is stated to the effect :-

“ **CERTIFICATE UNDER PARA &(C) (ii)**
OF REGULATION FOR THE IAF 1964 (EDITION)

Certified that investigation into the injuries by 669924-F JWO BD Pandit AF Flt would add nothing to the report on IAF(P) 23. Hence, holding of Court of inquiry/Formal investigation is dispensed with in terms of Para 796(C) (ii) of Regulation for the IAF 1964(Edition). ”

indicating to the effect that the holding of the Court of Inquiry was dispensed with, whereas as per the document dated 16.03.2021 it is stated that the Court of Inquiry was held. The respondents shall explain the same through an affidavit.

The matter be re-notified as Part Heard on 22.03.2024.

Copy of this order be given DASTI as prayed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT. GEN. C.P. MOHANTY)
MEMBER (A)