

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

B.

OA 1115/2019 WITH MA 1808/2019

Sep Dharamvir (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate  
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R  
25.10.2024

This OA has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 seeking grant of disability pension. We have reserved this matter after final arguments on 01.10.2024.

2. While going through the counter affidavit dated 18.10.2019 filed by the respondents, vide Para 2 at Page No.93, it has been submitted that the applicant has been invalidated out from the service. However, on going through the Medical Board records, we find that the applicant has been brought before the Release Medical Board and not the Invaliding Medical Board, and that he has been "released from service in Low Medical Category not solely on medical grounds". Furthermore, nowhere in the Release Medical

Board, the applicant has been recommended to be invalidated out from service.

3. Similarly, vide Para (vi) at Page No. 92 of the counter affidavit, it has been submitted by the respondents that the disability has been held to be aggravated by the RMB and assessed at 20%, and that the applicant was not entitled being a case of PMR. However, on the contrary, vide Para 3 at Page No.93 and Para (I) at Page 96, it has been contended that the disability has been held to be neither attributable nor aggravated by the service.

4. We further observe from the Annexure A-1 filed by the applicant that the applicant is in receipt of Service Element of Disability Pension, with almost 12 years of service, without the completion of 15 years of service, being a prerequisite for grant of service pension.

5. Faced with this situation, we direct the Respondents to file an additional affidavit within four weeks, specifying the following conditions:

(i) Whether the applicant has been released from service or invalidated out from service or has been discharged due to unavailability of sheltered appointment or has been discharged due to being in

low medical category ? All the relevant documents to be placed on record substantiating the same.

(ii) Whether the applicant is in receipt of the service element of disability pension ? If yes, respondents to clarify as to under what circumstances, and all the relevant documents to be placed on record.

6. List again on **29.11.2024**.

7. A copy of this order be provided '*DASTI*' to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Ps