

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

1.  
OA 30/2019

Smt. Suman Devi

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Santosh Narayan Singh,  
Advocate

For Respondents : Mr. Arvind Patel, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

1. Heard. Admit. Issue notice. Notice is accepted by Mr. Arvind Patel, advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **28.03.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

2.  
OA 231/2019

For Applicant : Mr. Ankush Chowdhary, Advocate  
For Respondents : Mr. Y.P. Singh, Advocate

ORDER  
22.02.2019

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

3.  
OA 272/2019

Ex Hav (Hony Nb Sub)

Ram Sagar Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. V.S. Kadian, proxy counsel for  
Mr. J.P. Sharma, Advocate

For Respondents : Mr. Rajeev Kumar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

1. Heard. Admit. Issue notice. Notice is accepted by Mr. Rajeev Kumar, advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **28.03.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

4.

OA 273 /2019

Ex Hav (Hony) Nb Sub) Shyam

Prakash Pandey

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. V.S. Kadian, Proxy counsel for  
Mr. J.P. Sharma, Advocate

For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

1. Heard. Admit. Issue notice. Ms. Jyotsna Kaushik, advocate.

She seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **28.03.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

5.

OA 274 /2019 with MA 733/2019

Ex PO (U/CI) Birla Ram Lamba

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr Sukhjinder Singh, Advocate

For Respondents : Mr. Arvind Patel, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

1. Heard. Admit. Issue notice in O.A. as well as M.A. Notice is accepted by Mr. Arvind Patel, advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **28.03.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

6.

OA 278/2019 with MA 739/2019

Ex HFO Satya Prakash Sharma

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Ms. Pallavi Awasthi, Advocate

For Respondents : Mr. Rajeev Kumar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

1. Heard. Admit. Issue notice in O.A. as well as M.A. Notice is accepted by Mr. Rajeev Kumar, advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **02.04.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

7.

OA 279/2019 with MA 740/2019

Ex Nk Sahab Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate

For Respondents : Mr. D.K. Sabat, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

1. Heard. Admit. Issue notice in O.A. as well as M.A. Notice is accepted by Mr. D.K. Sabat, advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **02.04.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

8.

OA 280/2019

Col (TS) Shyama Nand Jha (Retd) ... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. I.S. Singh, Advocate

For Respondents : Mr. J.S. Yadav, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

1. Heard. Admit. Issue notice in O.A. Notice is accepted by Mr. J.S. Yadav, Advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **02.04.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha



COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

9.

OA 281/2019 with MA 746/2019

Ex Sgt Sultan Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. V.D. Sharma, Advocate

For Respondents : Mr. J.S. Rawat, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

1. Heard. Admit. Issue notice in O.A. as well as M.A. Notice is accepted by Mr. J.S. Rawat, advocate. He seeks time to file counter affidavit. The same be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **04.04.2019** for completion of pleadings.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

10.

OA 282/2019

Air Cmde N Munirathnam(Retd.) ... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant :Mr. Ajai Bhalla, Advocate

For Respondents :Mr. S.D. Windlesh, Advocate.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

1. Heard. Admit. Issue notice. Notice is accepted by Mr. S.D.

Windlesh, advocate. He seeks time to file counter affidavit. The same

be filed within four weeks with copy to the counsel for the applicant.

2. List before Principal Registrar court on **02.04.2019** for

completion of pleadings.

(JUSTICE SUNITA GUPTA)

MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)

MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

11.

MA 742/2019 in OA 655/2015

Ex Sepoy Makhan Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Ms. Archana Ramesh, Advocate

For Respondents : Mr. Anil Gautam, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Counsel for the applicant seeks execution of the order dated 17.08.2018. Mr. Anil Gautam, counsel for the respondents seeks time to take instructions in the matter. The same be implemented if the same has not been implemented so far.

2. Relist on 15.07.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

12.

MA 743/2019 in O A 299/2014

Major Rupinder Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Ms. Archana Ramesh, Advocate

For Respondents : Mr. S.P. Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Counsel for the applicant seeks execution of the order dated 17.08.2018. Mr. S.P. Sharma, counsel for the respondents seeks time to take instructions in the matter. The same be implemented if the same has not been implemented so far.

2. Relist on 15.07.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

13.

MA 744/2019 in OA 351/2014

Sep Varinder Kumar

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Ms. Archana Ramesh, Advocate

For Respondents : Mr. K.K. Tyagi, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Counsel for the applicant seeks execution of the order dated 17.08.2018. Mr. K.K. Tyagi, counsel for the respondents seeks time to take instructions in the matter. The same be implemented if the same has not been implemented so far.

2. Relist on 15.07.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

14.

OA 349 /2018 with MA 216/2018

Sgt Satish Chandra Tripathi(Discharged)      ... Applicant  
Versus  
Union of India & Ors.      ...Respondents

For Applicant      : Applicant in person  
For Respondents   : Mr. Sandeep Mishra, proxy  
                              counsel for Mr. Tarunvir Singh  
                              Khehar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)  
HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

O R D E R  
22.02.2019

Counsel for the respondents seeks more time to file counter affidavit.

The same be filed within one weeks with copy to the applicant who may file  
rejoinder, if any, within four weeks thereafter.

2. List on      27.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

15.

OA 860/2018

Smt. Mamta Yadav Wd/o Late Gnr

Amarjeet Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Father of the applicant.

For Respondents : Mr. S.D. Windlesh for R 1-4, Advocate  
Mr. Deepak Agarwal, proxy counsel  
for Mr. S.S. Pandey. Advocate for R-5.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

Father of the applicant submits that the applicant wants to submit his application to withdraw the O.A. and the application to this effect was handed over to the counsel for the applicant who has not been able to come today. Applicant is directed to be personally present on the next date of hearing.

2. Relist on **12.03.2019**.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

16.  
OA 688 /2015

Ex PO ELP PL Bhardwaj

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Deepak Agarwal, proxy counsel for  
Mr. S.S. Pandey. Advocate

For Respondents : Dr. Vijendra Singh mahndiyan, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

More time is sought by the proxy counsel for the applicant for filing

PPO. Last opportunity is granted.

2. Relist on 22.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha



COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

17.

OA 798/2015

Ex Sub Rajendra Singh Gusain

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant

: Mr. I.S. Singh, Advocate  
Applicant in person.

For Respondents

: Mr. S.P. Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

Applicant is present in person. Mr. I.S. Singh. Advocate, who has been appointed Amicus Curiae, submits that post retirement, applicant has been granted Hony. Commission but that does not entitle him to any financial benefit. He submits that applicant will make appropriate representation for grant of the benefit. Liberty, as prayed, is granted and O.A. stands disposed off.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

18.

OA 1595/2017

Ex Sgt Praveen Senwal

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Praveen Kumar, Advocate

For Respondents : Mr. Ashok Chaitanya, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Learned counsel for the respondents submits that the earlier O.A. filed by the applicant was ordered to be treated as first appeal. Pursuant thereto the applicant was called to appear before Appellate Medical Board. Counsel for the applicant submits that he could not appear before the Appellate Medical Board due to certain exigency as at that time he was employed in a private firm in Gurgaon and for conducting medical examination he had to remain in hospital for two to three weeks and there was possibility of losing the employment. The applicant even could not file rejoinder as he is based in SBI, Bijnor and therefore, more time is sought to file rejoinder. The same be filed within six weeks with copy to the respondents.

2. List on 26.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

19.

Sub (M/Tech) Sanjeev Kumar Saini ... Applicant

Union of India & Ors.

## ...Respondents

**For Respondents** : Ms. Jyotsna Kaushik, Advocate

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

ORDER

Counsel for the respondents submits that the applicant has exercised his option w.e.f. 01.07.2008. Counsel for the respondents seeks time to take instructions.

2. List on 26.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

20.

OA 1077/2018 (OA 661/2017) (RB, Lucknow)

Ex Sapper Inder Ram

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : None

For Respondents : Major BVS Chaudhary, OIC, Legal Cell

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

None for the applicant. On 05.07.2018 Mr. Manoj Gupta, Advocate appeared for the applicant and submitted that he has filed his Vakalatnama on behalf of the applicant. Since the same was not available on record he sought time to file the same in due course. Later on 27.10.2018 he appeared and stated that he is not the counsel for the applicant and neither the applicant nor the concerned advocate had appeared and in the interest of justice no adverse order was passed on that day.

2. Even today, none is present on behalf of the applicant. Under the circumstances O.A. is dismissed for non prosecution.

(JUSTICE SUNITA GUPTA)

MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)

MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

21.

OA 1361/2018 with MA 1349/2018

Ex Nb Sub Jaineswar Khuntia

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. V.S. Kadian, Advocate

For Respondents : Mr. S.P. Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Counter affidavit has been filed. Counsel for the applicant does not want to file rejoinder.

2. List on 27.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

22.

OA 1368/2018 with MA 1352/2018

Ex Hav Ramakant Prasad

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Ram Kamal Prasad, Advocate

For Respondents : Mr., Arvind Patel, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Present OA has been filed by the applicant claiming the benefit of broad-banding of disability element of pension from 20% to 50% w.e.f. 01.01.1996 in the light of Government of India, Ministry of Defence Letter No.1(2)/97/D(Pen-C) dated 31.01.2001 and judgement of Hon'ble Supreme Court dated 10.12.2014 in the case of Union of India & Ors Vs Ram Avtar, CA No.418/2012. The applicant also claims interest @ 12% p.a. on the arrears till the date of payment.

2. Learned counsel for the respondents has no objection for broad-banding of disability element of pension to the applicant from 20% to 50% for life, subject to verification.

3. That being so, subject to verification, the applicant is granted benefit of rounding off of disability element of pension from 20% to 50% for life. However, the arrears be granted for three years preceding to filing of the present OA i.e. 01.08.2018. The arrears be paid within a period of four months from date of receipt of this order failing which the applicant shall be entitled to the interest @ 8% p.a.

4. OA as well as M.A. stands disposed off accordingly.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

23.

OA 595/2016 with MA 544/ 2016

Birender Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. R.K. Rastogi, Advocate

For Respondents : Mr. S.D. Windlesh, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Original medical record of the applicant has not been brought by the respondents and it is stated that no intimation has been received. On the last date of hearing respondents were directed to bring original medical record of the applicant and it was further directed that in case the original medical record is not received the concerned officer responsible for sending the same is to be present in the Tribunal. However, neither the original medical record of the applicant is received nor the concerned officer has appeared. No ground has been assigned for the same. Show Cause notice be sent to Chief Record Officer, Jat Regiment as to why records have not come and why he is not present today.

2. Relist on **23.08.2019**. Order dasti.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha



COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

24.

OA 765/2016

Ex Sep Badri Lal Gujar

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr.Ajai Bhalla, proxy counsel for  
Mr. S.M. Dalal, Advocate

For Respondents : Mr. Y.P. Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

Original medical record of the applicant has not been brought by the respondents. Main counsel for the applicant is not available, as such a request for adjournment is made. Respondents are directed to bring original medical record of the applicant positively on the next date of hearing.

2. List on 23.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

25.

OA 1040/2016

Virender Singh Yadav Ex CPOR (Tel) ... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant :Mr. Sukhjinder Singh, Advocate

For Respondents :Mr. Avdhesh Kumar Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Photo copy of the medical report of the applicant has been handed over to us. Arguments heard. Vide separate order O.A. is disposed.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

25.  
OA 1040/2016

Virender Singh Yadav Ex CPOR (Tel) ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant :Mr. Sukhjinder Singh, Advocate

For Respondents :Mr. Avdhesh Kumar Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

O R . D E R  
22.02.2019

The facts germane to the case of the present O.A. are that the applicant joined service on 10.07.1982 as Seaman (Telegraphist/Radio) in Communication Department of the Navy and retired on 31.07.2010 after completion of 28 years of service. By the Release Medical Board dated 08.02.2010 he was found suffering from the following disabilities for life:

- |                            |     |
|----------------------------|-----|
| (a) Primary Hypertension   | 30% |
| (b) Bronchial Asthama      | 20% |
| (c) PIVD LS/SI (Disc Slip) | 20% |

2. The composite assessment for all above disabilities was decided as 50% but only disability (c) i.e. PIVD LS/SI (Disc Slip) was accepted as aggravated due to military service AT 20% and disabilities (a) Primary Hypertension and (b) Bronchial Asthama were considered as not attributable/aggravated by military service. The Medical Board has

not mentioned any reason why these diseases are not attributable to service or aggravated by service conditions. The composite assessment of all the disabilities was assessed @ 50% for life. The applicant has placed reliance on Hon'ble Supreme Court's judgement viz. *Dharamvir Singh Vs. Union of India and Ors.* (2013) 7 SCC 316.

3. The right to file counter affidavit of respondents was closed on 25.07.2017 after giving number of opportunities to the respondents to file counter affidavit. At the request of learned counsel for the respondents, they were directed to bring original medical record of the applicant. A photo copy of the same has been handed over to us.

3. Having heard learned counsel on both sides and gone through the medical report of the applicant, we are of the view that the case in hand is squarely covered by the decisions referred to herein above. In *Dharamvir Singh* (supra) the Hon'ble Supreme Court held that any disability sustained during the course of Military Service will be attributed to service conditions unless the disability was such that the disease could not have been detected on medical examination before a person is selected for Defence Service and furthermore before arriving at a conclusion the Release Medical Board should have assigned reasons, in writing, that the disability was not due to Military Service. There is no dispute with regard to the fact that when the applicant entered into service, he was not suffering from any disease and that the disability in question was detected/sustained only during the course of his Military Service.

4. The matter for implementation of orders of the Hon'ble Supreme Court in the matter of Dharamvir Singh (supra) in respect of Armed Forces Personnel in NANA cases was taken up with the Department of Expenditure, Ministry of Finance for consideration. Accordingly, Ministry of Defence by their letter dated 29<sup>th</sup> June, 2017 sent to the Chief of Staff of Army, Navy and Air Force for implementation of the orders of Hon'ble Supreme Court, has laid down the following essential parameters for allowing disability pension:

I. The question whether a disability is attributable or aggravated by military service is to be determined under "Entitlement Rules for Casualty Pensionary Awards 1982."

II. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service.

III. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has laid to an individual's discharge or death will be deemed to have arisen in the service.

IV. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be

deemed to have arisen during service, the medical board  
is required to state the reasons.

5. In the light of the preceding paragraphs and essential parameters given aforesaid, we hereby set aside the impugned order rejecting the claim of the applicant for disability pension and hold that he is entitled to disability element of pension for disability 'Primary Hypertension' and 'Bronchial Asthama' also from the date of his retirement. Composite assessment of all the three disabilities was 50% for life, which is to be broad banded to 75% in the light of the judgment of the Hon'ble Supreme Court in *Union of India and Ors. Vs. Ram Avtar* decided on 10<sup>th</sup> December, 2014.

6. Since the applicant has come to this Tribunal after a considerable delay, hence the arrears are restricted to three years prior to the date of filing of the original application i.e. 29.08.2016. The arrears be paid within a period of four months from date of receipt of this order failing which the applicant shall be entitled to the interest @ 8% p.a. till payment.

8. OA stands disposed off accordingly. No order as to costs.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(VICE ADMIRAL P. MURUGESAN)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

26.

OA 1360/2017

Pradeepta Kumar Naik (Ex SGT) ... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Ashutosh Singh, proxy  
counsel for Mr. G.K. Pathak, Advocate

For Respondents : Mr. Prabodh Kumar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

Counsel for the applicant submits that the applicant had reported to R.R. Hospital. However, due to his domestic problem his Medical Board could not be conducted. Now he has been called on 27.02.2019. As such, relist on **26.08.2019**.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

27.

OA 1590/2017

Ex Hav Dayanand

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. V.S. Kadian, proxy counsel for  
Mr.J.P. Sharma, Advocate

For Respondents : Mr. Arvind Patel, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER  
22.02.2019

The applicant, through the instant OA, seeks grant of disability element of pension for life with benefits of broad-banding and interest.

2. The applicant was enrolled in the Indian Army (EME) on 01.09.1983 and was discharged from service w.e.f. 31.05.2001 after completion of 17 years and 09 days for which he is getting service pension vide PPO No. S/037544/2001 (Army) dated 24.07.2001. He was discharged from service on medical ground due to permt Low Medical "Category P2 (Permt) before his terms of engagement. The Release Medical Board proceedings held, at the time of his discharge from service on 05.03.2001 considered his disability 'Primary Hypertension 401' as aggravated by military service due to stress and strain of military service @ 20% for two years. The EME Records had processed the claim for grant of disability pension to PCDA (P) Allahabad vide their letter No. 14557875/DP-5/Pen dated 28.12.2001. PCDA (P) Allahabad rejected his claim vide their letter No. G-3/88/168/1-02 dated 07.05.2002 The applicant served a legal notice cum representation



dated 06.08.2017 through his counsel for grant of disability element of pension quoting judgement of Hon'ble Supreme Court ***Dharamvir Singh Vs. Union of India and Ors.*** (Civil Appeal No. 4949 of 2013) AIR SCW 4236. The respondents rejected his representation also vide their letter 07.06.2017.

3. We have heard the learned counsel for the applicant as well as the learned counsel for the respondents and perused the documents available on record along with the relevant regulations.

4. It is an undisputed fact that the applicant had joined the service on 01.09.1983 having been adjudged to be fully fit therefore, following a rigorous medical examination. There is also no dispute with regard to the fact that the applicant was discharged from service on medical ground due to permt Low Medical Category P2 (Permt). Prior thereto, the Release Medical Board assessed the disability of the applicant 'Primary Hypertension 401' as aggravate by the military service, which is admitted in counter affidavit.

5. We are of the view that the administrative decision taken by the respondents to deny disability element of pension to the applicant is against the decisions of the Hon'ble Supreme Court in Ex Sapper Mohinder Singh Vs Union of India & Another (CA No.164/1993 decided on 14.01.1993) and Dharamvir Singh Vs Union of India and Ors (2013) 7 SCC 316. The IHQ (Army) has also issued a letter dated 25.04.2011, the relevant portion of which is reproduced below:

“.....

.....

2.       *These alterations in the findings of IMB/RMB by MAP (PCDA(P)) without having physically examined the individual, do not stand to the scrutiny of law and in numerous judgements, Hon’ble Supreme Court has ruled that the Medical Board which has physically examined, should be given due weightage, value and credence.*

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4.       *All Command HQs are requested to instruct all Record Offices under their command to withdraw unconditionally from such cases, notwithstanding the stage they may have reached and such file be processed for sanction.*

.....

.....

.....”

6.       In a catena of judgements (pointedly, OA 270 of 2016 of Armed Forces Tribunal Regional Bench, Chandigarh), this Tribunal has reaffirmed with consistency that due credibility and primacy has to be given to medical board proceedings. Whether it be the PCDA or an administrative authority, refutation of a medical opinion can only be changed by another more competent medical opinion. We do not find any justifiable reason on the part of the respondents in denying disability element of pension to the applicant, especially when the Release Medical Board had determined the disease of the applicant i.e. ‘Primary Hypertension 401’ as aggravated by

the military service due to stress and strain of service and assessed at 20% for two years.

7. In the result, OA is allowed setting aside the impugned order dated 30.08.2017 and the applicant is granted disability element of disability pension @ 20% as assessed by Release Medical Board for two years which is required to be rounded off to 50% in terms of Govt. of India, Ministry of Defence Letter No.1(2)/97/D(Pen-C) dated 31.01.2001 and law settled by Hon'ble Supreme Court in Civil Appeal No.418/2012 titled **UOI & Ors Vs Ram Avtar** vide judgment dated 10.12.2014. w.e.f. date of retirement i.e. 31.05.2001 for two years.

8. Counsel for the applicant submits that applicant will make a representation for grant of disability pension for life. if he so desires. In case such a representation is made, same be considered by the competent authority in accordance with its policy/regulations.

9. The respondents are directed to calculate, sanction and issue necessary PPO to the applicant within a period of four months from the date of receipt of this order, failing which, it shall carry interest @ 8 % p.a.

10. OA stand, accordingly, disposed off. MA, if any, also stand disposed off.

No order as to costs.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

28.

OA 370/2018 with MA 1472/2018

Ex Hav Kundan Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Janak Raj Rana, Advocate

For Respondents : Mr. Shyam Narayan, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

O R D E R

22.02.2019

MA 1472/2018

Vide this application, applicant seeks condonation of delay of 40 days in filing counter affidavit. In view of the averments made in the application the delay in filing the counter affidavit is condoned and the same is taken on record.

2. M.A. stands disposed off.

OA 370/2018

Rejoinder has been filed by the applicant.

2. List for hearing on 27.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

29.

OA 502/2016

Smt Saroj Devi

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. A.K. Trivedi, Advocate

For Respondents : Mr. Prabodh Kumar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Original medical record of the applicant has not come despite sending message by Legal Cell of the respondents. CRO, Kumaon Regiment is directed to be personally present in the Tribunal on the next date of hearing to explain as to why the record was not sent. He should also bring the original medical record of the applicant with him.

2. In the mean time applicant may file rejoinder with copy to the respondents.

2. Relist on 23.08.2019.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

30.

OA 980/2017

Col R.K. Saxena

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant :M. Sangeeta Tomar, Advocate

For Respondents :Dr. Vijendra Singh Mahndiyan, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

Further arguments heard. Counsel for the applicant has handed over the documents regarding re-employment of the applicant. The respondents have also handed over the medical report of the applicant.

2. Vide separate order O.A. stands allowed.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

31.

OA 57/2011 with MA 19/2017

Ex Master Chief Petty

Officer-1 Bhim Sen Singh

... Applicant

Versus

Union of India & Ors.

...Respondents

For Applicant : Mr. Deepak Agarwal, proxy counsel  
for Mr. S.S. Pandey, Advocate

For Respondents : Mr. V.S. Tomar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

22.02.2019

MA 19/2017

Respondents have already filed reply in the form of counter affidavit to MA. 19/2017.

OA. 57/2011

Request for adjournment is made on the ground that the counsel for the applicant is busy in the High Court.

2. List for hearing on **15.04.2019**. It is made clear that it is a very old matter and no further adjournment will be granted on that date.

(JUSTICE SUNITA GUPTA)  
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)  
MEMBER (A)

sudha

