

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

1.  
**OA 276/2017 with MA 227/2017**

**Sqn Ldr Sarat C Varma &Ors. .... Applicants**  
**Versus**  
**UOI & Ors. .... Respondents**

**For petitioner : Mr. Anil Srivastava, Advocate**  
**For respondents : Ms. Nisha Mohandas, Advocate proxy for**  
**Mr. Harish V Shankar, Advocate**

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Learned proxy panel counsel for the respondents seeks and is allowed a brief adjournment of one day to file objections.

2. List on **11.10.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

2.

**OA 1157/2017 with MA 854/2017 & 855/2017**

**JV Sanctis Ex ERA II** ..... Applicant  
**Versus**  
**UOI & Ors.** ..... Respondents

**For petitioner** : Mr. Sukhjinder Singh, Advocate  
**For respondents** : Mr. SD Windlesh, Advocate with Lt. Cdr. Neelaksh,  
Legal Officer

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Lt. Cdr. Neelaksh, Legal Officer seeks and is allowed four weeks' time to file objections to the application seeking condonation of delay.

3. List on **30.11.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

**3.**

**OA 1294/2017 with MA 963/2017 & 964/2017**

**Jacob Johnson Ex ERA** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Mr. Sukhjindersingh, Advocate  
**For respondents** : Dr. Vijendra Singh Mahndiyan, Advocate with  
Lt. Cdr. Neelaksh, Legal Officer

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

Lt. Cdr. Neelaksh, Legal Officer seeks and is allowed four weeks' time to file objections to the application seeking condonation of delay.

**3. List on 30.11.2017.**

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

**4.**  
**OA 1345/2017**

**EM (R) Onkar Singh** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Ms. Sampanna, Advocate proxy for  
Mr. AjitKakkar, Advocate  
**For respondents** : Ms. Nisha Mohandas, Advocate proxy for  
Mr. Harish V Shankar, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

The result of Release Medical Board has not been communicated to this Tribunal as also to the applicant. Learned proxy Panel Counsel seeks a brief adjournment. Shri is directed to place RMB proceedings before this Tribunal tomorrow positively.

2. List on **10.10.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

**5.**  
**OA 1706/2017 with MA 1284/2017**

**Hav L Suresh** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Ms. Archana Ramesh, Advocate  
**For respondents** : Mr. KK Tyagi, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

This is an application under Section 14 of the Armed Forces Tribunal Act, 2007 seeking directions to respondents to formalize and streamline the same pay and allowances with same status and promotional avenues to all Junior Engineers of MES. Be registered and diarized as such.

2. Admitted.
3. Issue notice. Learned Senior Penal Counsel for the respondents accepts the notice.
4. Four weeks' time is granted to the respondents to file the counter affidavit. Rejoinder, if any, be filed within two weeks thereafter.
5. List on **04.12.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

**6.**

**MA 1195/2016 in OA 927/2015**

**Lt Col Pushpadharan T (Retd) ..... Applicant**  
**Versus**  
**UOI & Ors. .... Respondents**

**For petitioner** : Ms. Ankita Pradhan, Advocate, proxy for  
Mr. SS Pandey, Advocate  
**For respondents** : Mr. Anil Gautam, Advocate with Maj. PritiTyagi,  
OIC Legal Cell

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Major PritiTyagi, OIC, Legal Cell submits that the PPO has been issued. She has displayed a digital copy thereof to the learned counsel for the applicant. Since the PPO has been issued, nothing survives for consideration of this Tribunal. The execution application is disposed of. However, the applicant will have a right to have recourse to this Tribunal in case anything has been left outstanding.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

7.  
**MA 102/2017 in OA 754/2016**

**Sub (TIFC) G Siva Kumar** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Ms. Ankita Pradhan, Advocate, proxy for  
Mr. SS Pandey, Advocate

**For respondents** : Dr. Vijendra Singh Mahndiyani, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Dr. Vijendra Mahndiyani, learned Senior Panel Counsel for the respondents submits that Government sanction has been issued in the instant matter. He has displayed a digital copy thereof to the learned counsel for the applicant. In view of this, nothing survives for consideration of this Tribunal.

2. At this stage, learned Senior Panel Counsel submits that since the applicant is in service, in the instant case PPO is not required to be issued. However, PAOR is to release the payment. Same be done within a span of two months from today.

3. The execution application is disposed of accordingly.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

**8.**  
**MA 375/2017 in OA 1080/2016**

**Ex Sep Mohammad Allaudin Ansari** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Ms. Archana Ramesh, Advocate  
**For respondents** : Mr. VS Tomar, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Adjourned at the request of learned counsel for the applicant.

2. List on **16.11.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

9.

**OA 612/2015**

**Ex Sub Clk BK Sharma**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. VS Kadian, Advocate

**For respondents** : Mr. Anil Gautam, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

The applicant seeks the directions in the name of respondents to re-fix the basic pay of the applicant as per his entitlement at par with his juniors Sub. Clk (SD) Daya Shankar Pandey, who is junior to him. From the reply submitted by the respondents, it appears that the applicant had submitted his option certificate at the time of discharge of service i.e. on 30.09.2013. The respondents rejected the claim of the applicant on the ground that the applicant was required to exercise his option before 31.07.2013 but in the instant case, the applicant never exercised his option before 31.07.2013.

2. Learned counsel for the applicant has drawn our attention to the judgment rendered by the Principal Bench in OA No. 113/2014 titled Sub Chittar Singh Vs. Union of India Ors decided on 10.12.2014 wherein taking note of the letter dated 11.12.2013 forwarded to various Headquarters, it was observed that there was no justification to deny the benefit of submitting the option to applicant in that petition who could not give their option before 11.12.2013. It was also observed that if the petitioners would have known prior to 30.06.2011 that they could give their option by or before 30.06.2011, they would have also submitted their option for old pay scale. When the time was extended and it is not brought to the notice of the beneficiaries then extension of time by the respondents cannot give any benefit to the bonafide claimant for the benefit. This may be a fortuous circumstance for some person, who, incidentally, have knowledge of the extended date to 30.06.2011, and may

have submitted their option before such date and they were given the benefit of their submission of option by the letter dated 11.12.2013. In the matter of financial penal consequences, such a conundrum cannot be the criteria for giving benefit and denying the benefit.

3. In view of the above reason, that extension of time for submission of option was ordered to be circulated vide communication dated 12.12.2013, cannot be denied the benefit of exercising their option. These observations are answers to the objections that the respondents have raised. We are of the considered opinion that the option given by the applicant could not have been rejected. In our opinion, the respondents were bound to adhere to the norms set out in terms of the aforesaid letter and since the applicant had submitted his option prior to 12.12.2013, he could not be denied the benefit of exercising of his option. The applicant is found entitled to consequential benefits due to opting for the old pay scale, the respondents shall, accordingly, process the case of the applicant for grant of all monetary benefits acting upon the option submitted by the applicant for old pay scale.

4. This order shall be implemented within three months from the date copy of this order is served upon the respondents failing which it shall carry interest @ 9% per annum from the date of his entitlement i.e. from 01.01.2006.

5. Learned counsel for the respondents makes an oral prayer for leave to appeal before the Hon'ble Supreme Court. Since the matter is covered by a judgment of this Bench passed in a bunch of petitions in 2014 which has become final, prayer for leave to appeal is declined.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

**10.**  
**OA 656/2015 with MA 706/2015**

**Recruit Makhan Singh** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Ms. Archana Ramesh, Advocate  
**For respondents** : Mr. Anil Gautam, Advocate for R 1,2 & 4  
Ms. Anjali Vohra, Advocate for R-3

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Since the pleadings are complete, the matter be processed for final hearing.

2. List on **04.12.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

11.

**OA 659/2015**

**Capt (Retd) Ram Saran Singh**

..... Applicant

**Versus**

**UOI & Ors.**

..... Respondents

**For petitioner** : Mr. SM Dalal, Advocate

**For respondents** : Mr. KK Tyagi, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

Learned counsel for the applicant seeks an adjournment to lay hands upon the Notification to establish the factum of the applicant having sustained war injury/disability in a notified operation. In view of the above prayer, the matter is adjourned.

2. List on **01.12.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

**12.**  
**OA 718/2015 with MA 773/2015**

**Maj Raghvendra Singh (Retd)** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Ms. Archana Ramesh, Advocate  
**For respondents** : Mr. VS Tomar, Advocate for R 1,2 &4  
Ms. Anjali Vohra, Advocate for R-3

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Since the pleadings are complete, the matter be processed for final hearing.

2. List on **04.12.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**



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

14.

**OA 814/2015**

**Lt CdrSidharth Shankar**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. SM Dalal, Advocate

**For respondents** : Ms. Nisha Mohandas, Advocate proxy for  
Mr. Harish V Shankar, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

Adjourned at the request of the learned counsel for both the parties.

2. List on **10.10.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

15.

**OA 850/2015 with MA 867/2015**

**Ex AC (U/T) Vijay Yadav**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. VS Kadian, Advocate

**For respondents** : Ms. Jyotsana Kaushik, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

The applicant seeks a direction in the name of respondents to grant disability pension @ 50% for life after rounding off/broad banding of the disability. It is the admitted case of the parties that the applicant was enrolled in the Indian Air Force on 30.09.2009 and discharged on 15.11.2010 having been found medically unfit for further service. Thus the applicant rendered total service of one year and 47 days in Indian Air Force. On 04.09.2010, he was admitted in Command Hospital, Air Force, Bangalore as a case of Psychiatric Disorder (INV). The Psychiatrist diagnosed him as a case of Catatonic Schizophrenia. His Invalidating Medical Board was held at 410 Air Force Station, Bangalore on 12.10.2010, which found him fit to be released in low medical category A(P)G(P) for disability Catatonic Schizophrenia. IMB considered his disability Catatonic Schizophrenia as neither attributable to nor aggravated by service. The percentage of disablement was assessed as 40% for life. On adjudication, AOC, AFRO upheld the recommendations of IMB and rejected the disability pension claim vide order dated 18.07.2012. Applicant's first and second appeals against the rejection of disability pension claim were also rejected by the Appellate Committee.

2. Heard the learned counsel for the parties and perused the record.

3. It is not disputed that the applicant was enrolled in a fit medical condition and no note of any pre-existing disease or disability was made at

the time of his enrolment. It is also not disputed that the disease Catatonic Schizophrenia found by the IMB and assessed at 40% for life did not exist before entering service. Admittedly, the on-set of disability in question was during the military service of the applicant as it surfaced after about a year of his undergoing training for military service. These undisputed facts emerge from the medical record. Whether a disability is attributable to or aggravated by military service is to be determined with reference to entitlement rules. An individual is presumed to be in sound physical and mental condition upon entering service if there is no note or record of disability at the time of his enrolment. In the event of his subsequently being discharged from service in low medical category, deterioration in health is to be presumed due to service. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which had led to individual's discharge or death, will be deemed to have arisen in the service. If medical opinion holds that the disease could not have been detected on medical examination prior to acceptance for service, that disease will not be deemed to have arisen during service. However, reasons will have to be recorded in this regard.

4. In *Dharamvir Singh Vs. Union of India & Ors.* (Civil Appeal No. 4949/2013) decided on 20.07.2013, the Hon'ble Apex Court summed up the effect of the guidelines laid down in the Entitlement Rules for Casualty Pensionary Award, 1982 as under :

“A conjoint reading of various provisions, reproduced above, makes it clear that :

- (i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under Entitlement Rules for Casualty Pensionary Award, 1982” of Appendix-II (Regulation 173).

- (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. (Rule 5 r/w Rule 14(b).
- (iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for Pensionary benefit more liberally. (Rule 9).
- (iv) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service. (Rule 14 (c).”
- (v) If no note of any disability or disease was made at the time of individual’s acceptance for military service, a disease which has led to an individual’s discharge or death will be deemed to have arisen in service. (14(b).
- (vi) 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. (14(b); and
- (vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the “Guide to Medical (Military Pension), 2002 – “Entitlement : General Principles”, including paragraph 7, 8 and 9 as referred to above.”

5. This proposition of law was followed by the Hon’ble Apex Court in Union of India Vs. Rajbir Singh, decided on 30.02.2015. The law laid down

squarely applies to the facts and circumstances of the instant case. Applying these guidelines as noticed in the aforesaid judgments of the Hon'ble Apex Court and having regard to the Policy Letter dated 29.06.2017 issued by the Ministry of Defence, this is a fit case for grant of relief in terms of the prayer by holding that the disability found by the Medical Board qua the applicant is attributable to military service.

6. In view of the foregoing discussion, this petition is allowed. The applicant is held entitled to disability pension @ 40% for life with effect from the date of his discharge i.e. 15.11.2010. He is also held entitled to the benefit of broad banding of disability element with effect from the same date by allowing rounding off benefit of disability element to 50% as against 40% for life. The respondents shall calculate the arrears and issue PPO within three months from the date of service of this order. The arrears would be worked out and paid to the applicant within the aforesaid period of three months failing which the same shall carry interest @ 8% per annum with effect from 15.11.2010. Disposed off. No order as to costs.

7. File be consigned to records.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

**16.**  
**OA 913/2015**

**Ex Sep Manoj Kumar** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Mr. VS Kadian, Advocate  
**For respondents** : Ms. Nisha Mohandas, Advocate proxy for  
Mr. Harish V Shankar, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Adjourned at the request of the learned counsel for both the parties.

2. List on **10.10.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

17.

**OA 973/2015**

**Ex Nk Karan Bahadur Pun**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. Rajesh Nandal, Adv proxy for Ms. Sangeeta Tomar, Advocate

**For respondents** : Mr. YP Singh, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

Adjourned at the request of the learned proxy counsel for Ms. Sangeeta Tomar, main counsel for the applicant.

2. List on **13.11.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

09.10.2017nsv

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

18.  
OA 980/2015

**Smt Sampati Devi** ..... **Applicant**  
**Versus**  
**UOI & Ors.** ..... **Respondents**

**For petitioner** : Mr. Rajesh Nandal, Advocate  
**For respondents** : Mr. YP Singh, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

The applicant is the widow of late Nk Jangbir Singh, who joined the Army Service on 31.07.1974 and was invalidated out from service with effect from 30.09.1982 in Low Medical Category 'EEE' due to disease Schizophrenia (295). She seeks a direction in the name of respondents to declare her late husband entitled for pension and disability benefits on being invalidated out medically after 8 years and 62 days of regular Army Service as also a direction to grant family pension in her favour.

2. The factual matrix may briefly be noticed :

3. The husband of applicant Ex Nk. Jangbir Singh was invalidated out from service after rendering 8 years and 62 days service i.e. before completion of terms of his engagement, due to disease Schizophrenia (295) in medical category 'EEE'. Invalidating Medical Board held on 31.08.1982 at Army Hospital, Delhi Cantt. found Jangbir Singh suffering from disability Schizophrenia (295). The medical authorities considered his ID as neither attributable to nor aggravated by Military Service. The composite assessment of disability was assessed at 40% for two years approved by ADMS HQ., Delhi on 10.09.1982. Disability pension was not granted in favour of Jangbir Singh as the disability was considered as neither attributable to nor aggravated by the Military Service. Service pension was also not granted in favour Jangbir Singh as he had not rendered minimum 15 years of service. Appeal, as preferred against the

rejection of disability pension claim of Jangbir Singh stands rejected.

Jangbir Singh died a natural death on 05.10.1991.

4. In Dharamvir Singh Vs. Union of India & Ors. (Civil Appeal No. 4949/2013) decided on 20.07.2013, the Hon'ble Apex Court summed up the effect of the guidelines laid down in the Entitlement Rules for Casualty Pensionary Award, 1982 as under :

“A conjoint reading of various provisions, reproduced above, makes it clear that :

- (viii) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under Entitlement Rules for Casualty Pensionary Award, 1982” of Appendix-II (Regulation 173).
- (ix) 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. (Rule 5 r/w Rule 14(b).
- (x) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for Pensionary benefit more liberally. (Rule 9).
- (xi) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service. (Rule 14 (c).”

- (xii) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. (14(b).
- (xiii) 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. (14(b); and
- (xiv) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 – "Entitlement : General Principles", including paragraph 7, 8 and 9 as referred to above."

5. This proposition of law was followed by the Hon'ble Apex Court in Union of India Vs. Rajbir Singh, decided on 30.02.2015. The law laid down squarely applies to the facts and circumstances of the instant case. Applying these guidelines as noticed in the aforesaid judgments of the Hon'ble Apex Court and having regard to the Policy Letter dated 29.06.2017 issued by the Ministry of Defence, this is a fit case for grant of relief in terms of the prayer by holding that the disability found by the Medical Board qua the applicant is attributable to military service.

6. For the foregoing reasons, the petition deserves to be allowed. Deceased husband of the applicant namely Jangbir Singh is held entitled to disability pension @ 40% with effect from the date of his being invalidated out from the service on medical ground i.e. 30.09.1982 till his death i.e. 05.10.1991. The applicant, who is widow of deceased Ex Nk Jangbir Singh shall be entitled to lifetime arrears for the disability pension of her deceased husband for the aforesaid period and shall also be entitled to ordinary family pension with effect from 06.10.1991. The respondents shall calculate the arrears, issue PPO and pay the cumulated arrears to the applicant within three months from the date of service of this

order failing which the same shall carry interest @ 8% per annum with effect from 30.09.1982. Disposed off. No order as to costs.

7. Learned counsel for the respondents makes an oral prayer for leave to appeal before the Hon'ble Supreme Court, which has been rejected since no question of law of general public importance is involved in this case.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

09.10.2017nsv

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

19.

**OA 1026/2015 with MA 983/2015**

**Smt Sneh Lata**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Ms. Archana Ramesh, Advocate

**For respondents** : Mr. VS Tomar, Advocate for R 1,2 &4

Ms. Anjali Vohara, Advocate for R-3

None for R-5

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

The report from District Zila Sainik Board in regard to relinquishment of claim by respondent No. 5 qua the AGIF money is awaited. OIC (Records) Maj. Priti Tyagi submits that she has received a copy of the report submitted by Zila Sainik Board, Sonapat, which she will be submitting during the course of the day. Learned counsel for the respondents submits that the applicant Smt. Sneh Lata is an illiterate woman and not conversant with English. He invited the attention of this Tribunal to her purported signatures on the petition alleging that a fraud has been played. He may file a detailed complaint in this regard. Meanwhile, husband of the applicant, present in court, is directed to ensure personal appearance of the applicant in the court on the next date of hearing.

2. List on **17.11.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

20.

**OA 612/2016 with MA 838/2016**

**Spr/Chef Rakesh Kumar**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. Rajesh Nandal, Advocate

**For respondents** : Mr. Prabodh Kumar, Advocate

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

The applicant is seeking benefit of re-mustering. The respondents have taken the plea that the benefit of re-mustering is admissible to eligible candidates only. According to respondents, the applicant was not meeting the requisite quantitative requirement i.e. education criteria, therefore, it is not possible to extend the opportunity to the applicant for re-mustering into Clerk (Staff side). Learned counsel for the applicant submits that the applicant is a Graduate. This fact is not disputed by the respondents' counsel who submits that the applicant is a Graduate with English as one of the subjects but he is not qualified in Maths, Accounts and Book Keeping as the major subjects. It is not disputed that the eligibility is the sine-qua-non and cannot be relaxed. The eligibility bears reference to the date of consideration of the candidate for re-mustering. Since in the instant case, the applicant is ineligible and does not meet the education criteria, no case for indulgence is made out.

2. At this stage, learned counsel for the applicant sought to withdraw the petition as, according to him, the dismissal of the petition on merits may put a bar to his consideration if the education criteria is relaxed on a future date. He prays for withdrawal of this petition.

3. The petition is, accordingly, dismissed as withdrawn.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

21.

**OA 648/2016**

**L/NkNaresh Kumar**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. Rajesh Nandal, Advocate

**For respondents** : Mr. V Pattabhi Ram, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

The applicant is seeking benefit of re-mustering. The respondents have taken the plea that the benefit of re-mustering is admissible to eligible candidates only. According to respondents, the applicant was not meeting the requisite quantitative requirement i.e. education criteria, therefore, it is not possible to extend the opportunity to the applicant for re-mustering into Clerk (Staff side). Learned counsel for the applicant submits that the applicant is a Graduate. This fact is not disputed by the respondents' counsel who submits that the applicant is a Graduate with English as one of the subjects but he is not qualified in Maths, Accounts and Book Keeping as the major subjects. It is not disputed that the eligibility is the sine-quantum and cannot be relaxed. The eligibility bears reference to the date of consideration of the candidate for re-mustering. Since in the instant case, the applicant is ineligible and does not meet the education criteria, no case for indulgence is made out.

2. At this stage, learned counsel for the applicant sought to withdraw the petition as, according to him, the dismissal of the petition on merits may put a bar to his consideration if the education criteria is relaxed on a future date. He prays for withdrawal of this petition.

3. The petition is, accordingly, dismissed as withdrawn.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

**22.**

**OA 837/2016**

**Ex GnrNaresh Chand**

**..... Applicant**

**Versus**

**UOI & Ors.**

**..... Respondents**

**For petitioner : None**

**For respondents : Mr. KK Tyagi, Advocate**

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

There being no representation on behalf of the applicant, his presence is awaited.

2. List on **21.11.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

09.10.2017nsv

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

23.

**OA 977/2016 with MA 1125/2017 & MA 1209/2016**

**Col Amit Sood**

..... **Applicant**

**Versus**

**UOI & Ors.**

..... **Respondents**

**For petitioner** : Mr. Amitava Chauhan, Advocate

**For respondents** : Mr. KS Bhati, Sr CGSC with MrPrabodh Kumar  
Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

**MA 1125/2017**

This is an application for taking additional documents on record. The documents sought to be taken on record are stated to be relevant to the case and vital for determination of the lis. Same are allowed to be placed on record with right to respondents to rebut the same.

**OA 977/2016**

Adjourned at the request of the learned counsel for the respondents.

2. List on **14.11.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**

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

24.

OA 1130/2016

Ex Cpl Kanwar Pal

..... Applicant

Versus

UOI & Ors.

..... Respondents

For petitioner : Mr. VS Kadian, Advocate

For respondents : Mr. Prabodh Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)

HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)

ORDER

09.10.2017

Adjourned at the request of learned counsel for both the parties.

2. List on 17.11.2017.

(JUSTICE BANSI LAL BHAT)  
MEMBER (J)

(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)

09.10.2017nsv

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

25.

**OA 289/2017 with MA 1030/2017 & MA 763/2017**

**Flt Lt KanavKaushal** ..... **Applicant**  
**Versus**  
**UOI &Ors.** ..... **Respondents**

**For petitioner** : Mr. AjitKakkar, Advocate  
**For respondents** : Mr. Prabodh Kumar, Advocate proxy for Mr.  
KS Bhati, Sr CGSC

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**  
**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Rejoinder has not been filed. Learned counsel for the applicant undertakes to file the same during the course of the day and provide an advance copy to the learned counsel for the respondents.

2. Process for final hearing.
3. List on **12.12.2017**.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

26.

**OA 224/2017 with MA 172/2017**

**SqnLdrLokeshDutt Sharma** ..... Applicant  
**Versus**  
**UOI &Ors.** ..... Respondents

**For petitioner** : Mr. AjaiBhalla, Advocate  
**For respondents** : Mr. Ashok Chaitanya, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**  
**09.10.2017**

Learned counsel for the applicant submits that identical matters are listed before the Principal Bench of this Tribunal for **12.10.2017**. Let this petition be also submitted to the Hon'ble Principal Bench for consideration along with batch of identical petitions.

**(JUSTICE BANSI LAL BHAT)**  
**MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)**  
**MEMBER (A)**

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

27.

OA 1304/2017

**Ex Sub Chandra Pal**

..... **Applicant**

**Versus**

**UOI &Ors.**

..... **Respondents**

**For petitioner** : Mr. VS Kadian, Advocate

**For respondents** : Mr. Avdhesh Kumar Singh, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE BANSI LAL BHAT, MEMBER (J)**

**HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER (A)**

**ORDER**

**09.10.2017**

Reply has not been filed. Learned Senior Panel Counsel for the respondents seeks and is allowed extension of further time by two weeks to file the counter affidavit.

2. List on **25.10.2017**.

**(JUSTICE BANSI LAL BHAT)  
MEMBER (J)**

**(AIR MARSHAL D.C. KUMARIA)  
MEMBER (A)**