

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

O.A.No. 537 of 2010

Ex.Cpl Chander Bhan Dhankar ...Petitioner

Versus

Union of India & Others ...Respondent

For the Petitioner : Shri S.M.Hooda, Advocate

For the Respondents: Ms. Rashmi Singh, Advocate, Proxy
Counsel for Shri Ankur Chibber, Advocate

C O R A M:

HON'BLE MR. JUSTICE A.K.MATHUR, CHAIRPERSON

HON'BLE LT.GEN. M.L.NAIDU, MEMBER (A)

ORDERS

1. The petitioner by this petition has prayed that the respondent may be directed to grant an invalid pension

w.e.f. 29.5.1965 and also pay arrears along with the interest thereon.

2. The petitioner was enrolled in the Air Force on 03.06.1955. He was found under mental delirium in the year 1965 and was taken to Military Hospital, Delhi Cantt. where Medical Board assessed the disability of the petitioner to the extent of 40% and he was invalided out of service on 28.05.1965.
3. The petitioner has rendered 9 years and 360 days of qualifying service at the time of invalidation. He was denied disability pension, therefore, he filed a Writ Petition in the Delhi High Court which was allowed by its order dated 06.03.2003. The respondent was directed that the case of the petitioner be examined and in case he is found eligible for Invalid Pension then same should be paid to the petitioner restricted to last three years prior to filing of the Writ Petition and in case Invalid Pension is not

admissible, the reasons should be communicated to the petitioner. Thereafter, a speaking order was passed by the respondent dated 29.3.2004 and it was pointed out that after examining the record you were not found to be eligible for grant of disability pension, hence petitioner was driven to file the present petition before this tribunal and prayed that respondent may be directed to grant disability pension to the petitioner w.e.f. 29.5.1965.

4. Respondent filed its reply and pointed out that petitioner had rendered total 9 years and 360 days of qualifying service and he has not completed 10 years, therefore, he is not entitled to disability pension.
5. We have heard learned counsel for both the sides and perused the record. It is unfortunate that the person who has rendered 9 years and 360 days of service and is only short of 5 days for qualifying service to make it to the total period of 10 years, the authorities have rejected the case

of the petitioner. This shows the total insensitivity of the respondent. The 5 days could have been rounded off and whereas the respondent has the power to condone the period short upto the 3 months at the relevant point of time, now ofcourse the power has been given upto one year. We fail to understand that a man who has put in 9 years and 360 days and was only short of 5 days, why a sympathetic view was not taken. This only indicates insensitivity of the respondent.

6. We direct that the 5 days period may be condoned and petitioner shall be deemed to be completed 10 years of service and all the benefits which flow there from should be released to the petitioner adjusting the payment of invalid gratuity already paid to him. However, petitioner will not be allowed to benefit of arrears prior to 3 years from the date of filing this petition i.e. 9.9.2010. The arrears may be worked out and petitioner shall be paid with 12% interest within the period of three months.

7. The petition is allowed and no order as to costs.

[Justice A.K. Mathur]
Chairperson

[Lt. Genl. ML Naidu]
Member (A)

New Delhi
06th December, 2010