

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT  
NEW DELHI**

T.A. No. 177/2010

[W.P. (C) No. 18552/05 of Delhi High Court]

Ex Rect Raj Kumar

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh.V.K. Ojha, Advocate.

For respondents: Sh.Ankur Chibber, Advocate with Capt  
Alifa Akbar.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER  
19.04.2010**

1. The present petition has been transferred from  
Hon'ble Delhi High Court to this Tribunal on its formation.

2. Petitioner by this petition has prayed that competent Authority may be directed to pass an order of granting disability pension to him from the date of his discharge with all consequential benefits.

3. Brief facts which are necessary for the disposal of present petition are that petitioner was enrolled in Army on 28.02.2002 as a Recruit. At the time of enrolment, he was not suffering from any disease. During advance training, he got fracture in left leg while jumping in training. He was taken to Command hospital and was given treatment. He was granted 28 days sick leave. After completion of sick leave, he was not allowed to continue his training and he was placed before the medical board. The said medical board recommended his discharge on medical ground with disability more than 20%. It is alleged that petitioner was called by his Commanding Officer and told that if he is discharge on medial ground then he will not be eligible for appointment in any Government service and compelled him to submit his own request for discharge from service. Hence, on the advice of Commanding Officer, he made a representation

for discharge on medical ground. The competent Authority discharge the petitioner vide order dated 10.02.2004. Since, he was not given disability pension, he approached the Hon'ble Delhi High Court by filing present writ petition which was transferred to this Tribunal after its formation.

4. A reply was filed by the respondents wherein they pointed out that petitioner expressed his inability to continue in service and applied for discharge from service at his own request. The competent Authority considered his request and sanctioned his discharge with effect from 10.02.2004 under Army Rule 13(3) (IV). It is further pointed out that at the time of discharge he was medically examined and was found fit in medical category shape-1, therefore, he is not entitled to disability/pensionary benefits.

5. We have heard learned counsel for parties and perused the report of medical board placed before us.

6. We find that since the petitioner applied for the discharge on compassionate ground on his own request, he was examined by the medical board before release and he was found fit in medical category shape-1.

7. Since petitioner has sought discharge on compassionate ground on his own request and he was found fit in medical category shape-1 by release medical board, therefore, he is not entitled to disability pension.

8. Consequently, there is no merit in the petition. Same is dismissed with no order as to costs.

**A.K. MATHUR**  
**(Chairperson)**

**M.L. NAIDU**  
**(Member)**

**New Delhi**  
**April 19, 2010.**