

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

T.A. No. 207/2010

[W.P. (C) No. 8807/05 of Delhi High Court]

Mr. Chandra Bhan Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh.Anil Kishore, Advocate.

For respondents: Ms.Jagriti Singh, Advocate for Sh.A.K.
Bhardwaj, Advocate.

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 proceedings of medical board be called and he may be granted disability pension. It is also prayed that order dated 24.11.1970 may be quashed.

3. Brief facts which are necessary for the disposal of present petition are that petitioner served the Army with effect from July, 1965 to June, 1970 until he was invalided out of service on medical grounds. It is alleged that at the time of enrolment in Army, he underwent various medical tests and he was found medically fit. After serving 5 years, he was declared to be suffering from epilepsy and he was not found fit for retention in the service. He was put up to several medical examinations and declared him medically unfit to continue in service. Thereafter, he was invalided out of service by the medical board and he was discharged from the service with 30% medical disability. It is alleged that in the absence of any medical document in support of his invalidation, he was caught unawareness to his physical incapacity or any health condition. His claim of disability pension was denied. Therefore, he approached all the Authorities from

time to time but without any result. Ultimately, 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 have pointed out that petitioner filed the present petition after gap of 35 years. It is also pointed out that since petitioner's disease epilepsy was neither attributed nor aggravated by military service, therefore, his claim for disability pension was rejected.

5. We called for the record and we have perused the recommendations of the Medical Board and in that a detailed note has been given that petitioner was suffering this *Idiopathic Epilepsy since 12 years from the age of 23 years and after 4 ½ years of service*. It is also pointed out that *patient stated that he was having fit of unconsciousness off and on since last 12 years. During one of the fits previously he had bitten his tongue and once had sprained his right index finger. He also sustained several injuries on the forehead during fits. He had passed urine involuntarily during fits*. It is further recorded in the medical record

that he also admitted that on 11th March, 1970 had an attack of fit during evening roll call. On 15th April, 1970 he had an attack of fit in the presence of AMC Officer. This fit was also recorded.

6. It is evident from the medical record that right from the beginning he is suffering from that disease and he did not disclose it at the time when he was inducted into service. This disease is such that one cannot find out it from the apparent medical check up. This disease only came to the light after he had attacked. After 4 ½ years, petitioner got first attack and then it came to the light that he is suffering from this disease. He knew well from the very beginning when he was inducted into service but he did not disclosed at that time before the Medical Authorities who examined them.

7. In view of this, we are of the opinion that since the petitioner was having this malady right from the induction into the service as such it cannot be said to be attributed or aggravated by the Army service. Consequently, we dismiss present petition. No order as to costs.

8. Learned counsel for the petitioner submits that the Medical Board proceedings were not supplied to him. Respondent are directed to supply the Medical Board proceedings to the petitioner within 15 days from today.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
April 19, 2010.