

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

T.A.No. 339/2009

W.P.No.(C) 4794/02

Sanjeev Ex. M.E.

...Petitioner

Versus

Union of India & Others

...Respondent

For the Petitioner : Shri Y.D. Nagar, Advocate

For the Respondents: Ms. Jyoti Singh, 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. Present petition received from Hon'ble Delhi High Court on transfer.
2. Petitioner by this petition has prayed that keeping in view of the facts of this case, respondents may be directed to produce the record of the petitioner and issue suitable directions or command to

respondent to grant disability pension and other benefits to the petitioner from the date of his release with interest.

3. Petitioner was enrolled in the Indian Navy as M.E.R. At the time of enrolment in the Indian Navy, he was examined and considered to be medically fit in all respects. Petitioner was attested and took the oath of allegiance at INS Mandovi, Panaji, Goa by Commanding Officer and undergone six months basic training and Divisional and completed the same successfully and was allotted Engineering Mechanic Branch on 08.02.1985. On 09.02.1985, the petitioner was sent to INS Shivaji Lonawala, Pune, Maharashtra for further training and was given further training in Engineer Mechanic Trade and on qualifying the examination was advanced to the Rank of M.E. II on 18.02.1985. On completion of his training successfully, the petitioner was transferred to COMCG (West), Bombay and has worked upto 18.02.1986. Petitioner was transferred to warship INS Ranjit on 19.02.1986 and worked on this warship as Generator and A/C Plant Operator under the Command of Commander Engineer upto 04.09.1986 to his complete satisfaction on 05.09.1986, the petitioner was again transferred to warship INS Ranvir and worked

therein Engine Room Branch under the supervision of Commander (E) upto 07.05.1987. On 08.05.1987, he was transferred to INS DBT-61 on power boat and was employed there for the upkeep and service repair, maintenance of the Engine Room, Department. He was promoted to the rank of M.E.1st Class. Then on 09.08.1988 petitioner was again transferred to INS Angre in Fleet Maintenance Unit. Thereafter, on 15.06.1991 the petitioner was transferred to Coast Guardship Vard and he was working in the Engine Room Compartment at high sea. It is alleged that in view of stress and strain on the Coast Guard Vard at high sea Vishakhapatnam he suffered an attack of Epilepsy and was admitted to Naval Hospital INSH Kalyani and underwent treatment upto October, 1991 and the Hospital Board assessed his Medical category as (S3 A3) T-24. In the month of December, 1991 the petitioner was transferred to INS Circar and worked there in Motor Transport Department upto 19.04.1996.

4. On 20.04.1996, the petitioner being low medical category was transferred to INS India, Delhi and he was assigned the Motor Transport Department. The petitioner again suffered an attack and

was admitted in the Army Hospital, Delhi Cantt in January and underwent treatment upto 18th January, 1998 and the petitioner was put in medical category as compositive S3, A3, T-24 and thereafter on 26.06.1998 the petitioner was transferred to INS Katta Bon and petitioner was sent to Medical Board to INSH Sanjivani Cochin in the month of February, 1999. The Medical Board at INSH Sanjivini assessed the Medical Category of the petitioner as S3, A3 Permanent. Petitioner applied for further engagement but the same was turned down and the Released Medical Board was constituted which assessed petitioner's disability as 35% and put him in S3, A3 permanent. Thereafter, petitioner requested for grant of disability pension which claim was sent to the Defence Accounts (Navy), Pension Cell, Mumbai but they declined to grant the same. Hence, petitioner approached Hon'ble Delhi High Court by filing the present petition which has been transferred to this Tribunal on its formation.

5. In this background we found that the guidelines were not followed, therefore, we set aside both the findings of the Medical Board by order dated 26.8.2010 and directed that let the Medical Board may be reconvened in Delhi and petitioner may be asked to appear

before the Medical Board and the Medical Board may record its findings in the light of the Guidelines-2002 and give us definite findings whether both the diseases were aggravated or attributed due to serving on the high seas or not.

6. In pursuance of the directions issued on 26.8.2010, the medical board was reconvened again on 15.11.2010 and sent its finding to this Court which reads as under:

"However, Senior adviser Psychiatry in his opinion dated 29.5.1998, has stated that tab luminal 90 mg (anti-epilepsy drug) is likely to aggravate behavioural problems. Schizophrenia is a multifactorial disorder. The contribution of luminal treatment in hastening onset of schizophrenia can not be ruled out in this case. Hence board concedes benefit of doubt in favour of individual and considers ID (ii) aggravated by service".

7. In view of the finding given by the Medical Board dated 15.11.2010 that the incumbent's disability is assessed 30% and in composite 60% for life is aggravated by military service, the order passed by the respondent is set aside and respondents are directed now to work out all arrears and release arrears along with the disability pension from the date of three years preceding to filing of the Writ petition. The Writ Petition was filed in the High Court in the year

August, 2002. The arrears be worked out and be paid to the petitioner within three months along with interest of 12%.

8. The petition is disposed of with above observations. No order as to costs.

[Justice A.K. Mathur]
Chairperson

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

New Delhi

30th November, 2010