

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

T.A. No. 343/2009

[W.P. (C) No. 7595/09 of Delhi High Court]

Ex Nk Chander Bhan

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Col.S.R. Kalkal(Retd.), Advocate.

For respondents: Sh.Anil Gautam, Advocate with Capt Alifa Akbar.

CORAM:

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

**ORDER
14.05.2010**

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 he has been invalided out from service by the Medical Board on account of

disease 'psoriasis vulgaris' and his claim for 20% disability pension was rejected by the PCDA (P) Allahabad, hence he filed the present petition challenging the same.

3. Brief facts which are necessary for the disposal of present petition are that petitioner was enrolled in regular Army as combatant soldier on 29.04.1994 after being found physically and medically fit as per Regulation 383, Regulation for Medical Services Armed forces, 1982. He performed his duty to the best of his ability and served at different locations. While posted to high attitude area of Sikkim, he started to have some health problems. He was admitted and treated in Military Hospital for the disease 'psoriasis vulgaris' but could not be cured. Therefore, the Medical Board recommended that he be invalided out of service with 20% disability pension. It was also certified by the Medical Board that his disease was aggravated due to military service. His disability pension papers were processed by the respondents and same was sent to PCDA (P) Allahabad which rejected the same. Hence, he had no option but to file the present petition before the Hon'ble Delhi High Court which was transferred to this Tribunal on its formation for final disposal.

4. We have examined the matter and found that as per Medical Board, petitioner was released on account of disease 'psoriasis vulgaris' with 20% disability for life. We do not find any reason why PCDA(P) Allahabad has rejected the claim of the petitioner. Once the Medical Board recommends that petitioner should be released on account of disease 'psoriasis vulgaris', the finality is attached to the recommendation of the Medical Board unless he is examined by the higher medical Authority and come to a different conclusion with reasons then it is a different matter but PCDA(P) Allahabad without examining the petitioner has rejected his claim for disability pension, which is not correct. The PCDA(P) Allahabad had no occasion to see the patient and examine him to ascertain whether opinion given by the Release Medical Board was right or wrong. Therefore, we do not find any basis on which PCDA (P) Allahabad has rejected the claim of the petitioner. Same is set aside.

5. Petitioner was released from service with 20% disability and as per recommendation of 5th Central Pay Commission, the Government has issued the order dated

31.01.2001 whereby in case the incumbent is suffering from 20% disability then his disability should be computed to the extent of 50%.

6. Accordingly, we allow the petition and direct the respondents to pay the disability pension to the petitioner @ 50% from the date of discharge. All arrears should be worked out and be paid to the petitioner within 3 months from today with interest @12% per annum. No costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
May 14, 2010.