

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

TA No.559/2009

[WP (Civil) No. 212/1998 of Delhi High Court]

Ex. Naik Daya Nand

.....Petitioner

Versus

Union of India &amp; Others

.....Respondents

For petitioner: Sh. R.N. Sharma, Advocate.

For respondents: Sh. Anil Gautam, Advocate.

**CORAM:**

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

**ORDER  
29.01.2010**

1. The present petition was transferred from Hon'ble Delhi High Court to this Tribunal on its constitution.

2. Petitioner by this petition has prayed that by writ or direction petitioner may be granted disability pension @ 40%

along with interest from the date of his discharge from Indian Army i.e. 01.08.1989.

3. Brief facts which are necessary for the disposal of this petition are that petitioner joined Indian Army and he was discharged from Indian Army on 01.08.1989 as a result of disability @ 40% for a period of two years. Petitioner was given disability pension to the extent of 40% for a period of two years. Thereafter, his disability pension was discontinued. He filed petitions and ultimately without any result. PCDA, Allahabad directed him to appear before the Resurvey Medical Board but for one reason or other he did not appear. According to the respondents intimation was sent to him to appear before the Resurvey Medical Board but somehow or other petitioner did not appear, may be account of non-communication of the order or otherwise. Be that as it may be, learned counsel for petitioner submits that petitioner will now appear before the Resurvey Medical Board and his disability may be adjudged.

4. Having regard to the facts and circumstances of the case, we direct that let petitioner may appear before Resurvey Medical Board. In case he still suffers from disability and on the so recommendation made by the Resurvey Medical Board, authorities may take appropriate steps in accordance with law. Let petitioner may appear before the Resurvey Medical Board to assess his disability, if there is any. Petition is disposed of accordingly with aforesaid directions. No order as to costs.

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

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

**New Delhi**  
**January 29, 2010**