



reduced the percentage of disability pension at the rate of 30% instead of 60% be quashed.

2. The petitioner was commissioned in the Indian Army on 20.12.1970 and with the passage of time; he rose to the position of Lt Col. During April-July 1992, the petitioner was posted with 530 ESSC (GREF) at Port Blair. While there, in the early morning of 30.4.1992, he developed severe retrosternal pain with radiation, to both hands, alongwith sweating. The petitioner was admitted in INHS Dhanvantari (Port Blair), where he was treated and sent on sick leave. On rejoining duty, the petitioner reported to INHS Dhanvantari for review, as advised by the doctors. The petitioner was treated there again and finally he was placed in Low Medical Category with effect from 20.7.1992 by a Medical Board with advice to report to the nearest service hospital on 3.1.1993 for review. He was diagnosed as "Ischaemic Heart Disease (Inferolateral Myocardial Infaction)" and his disability was assessed as "due to stress and strain of military service". Subsequently on 10.2.1994, a re-classification medical board was held and the petitioner was placed permanently in Low Medical Category with effect from

12.1.1994. Thereafter, the petitioner was released from service on superannuation with effect from 1.1.1995.

3. The grievance of the petitioner is that though the Medical Board, which was held in 1994, assessed his disability at 60%, the PCDA (Pension), Allahabad granted disability pension to the petitioner at the reduced rate of 30%. The petitioner submits that subsequently in 2001 also, though the Medical Board assessed his disability at 60%, the petitioner was given disability pension at the rate of 30% only. Thereafter in 2006, the petitioner was allowed disability pension @ 30% for life.

4. Learned counsel for the respondents has filed a reply and produced before us the original records. The original records show that in 1994, the Medical Board assessed the disability of the petitioner at 60% for a period of two years. In 1996, when the Re-survey Medical Board was held, it assessed the disability of the petitioner at 30%. Therefore, so far as the grievance of the petitioner with regard to the assessment of the 1994 Medical Board is concerned, the grievance is correct. But, so far as the second period i.e. 2001 is concerned, the grievance of the petitioner is not

correct. A perusal of original record shows that in 2001 RMB found disability to the extent of 30% only. According to the petitioner, all these facts were not made known to him earlier and he came to know about it only when the records were made available to him. We accept his explanation. It may be true, as earlier the practice was not to give medical documents to the parties. It was only on account of judicial intervention that documents are now being made available to the parties. However, so far as the grievance with regard to the 1994 Medical Board is concerned, the PCDA(P) had no authority to interfere with the recommendation of the Medical Board. Therefore to deny the petitioner the disability pension at the rate of 60% by the PCDA was not proper. We accordingly allow this prayer of the petitioner that he should be given disability pension from 1994 to 1996 at the rate of 60%. The petitioner had already been paid @ 30% disability pension, which should be increased to 60% and the petitioner is entitled to arrears of disability pension to the extent of remaining 30%.

5. The second grievance of the petitioner is not justified since subsequent Medical Board in 2001 has recommended



disability pension only at the rate of 30% and that has been paid to the petitioner.

6. As a result of the above discussion, we allow this petition in part and direct respondents to workout the arrears of disability pension of the petitioner from 1994 to 1996 and reimburse him the balance 30% disability pension with interest at the rate of 12% within three months. No order as to costs.

**A.K MATHUR**  
(Chairperson)

**S.S DHILLON**  
(Member)