

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
17.

O.A. No. 569 of 2010

Jai Bhagwan Sharma

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Febin Mathew Varghese, proxy for Mr. Robin Ratnakar David, Advocate.

For respondents: Mr. Ajai Bhalla, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
24.11.2011

The Petitioner by this petition has prayed that the Respondents be directed to pay the arrears towards disability element of the pension from 08.03.1975 till the date of representation i.e. 21.06.2002 as per the revised P.P.O. No. D/R/8465/76 dated 29.05.1976 along with interest @ 12%. He has also prayed that direct the Respondents that Petitioner is entitled to 75% + 30% disability in view of the certificates issued by AIIMS and Dr. Rajendra Prasad Centre considering the totality of the facts and circumstances and further direct payment of the accrued arrears in accordance with the disability percentage of the Petitioner from 21.06.2002 till the date of disposal of the present petition along with interest @ 12%.

The Petitioner was enrolled in Navy in 1965 and he served the Navy till 1973. He had taken part in Indo Pak War in 1971. It is alleged that during the service, Petitioner suffered a head injury when there was a sudden burst of steam pipe with very high pressure and temperatures in the engine room of the ship. Over a period of time, he started suffering from frequent bout of

severe headaches which led to Neurological complications. He was hospitalized for a long time in 1972 and 1973 and finally boarded out of Naval service in Medical Category EEE w.e.f. 04.06.1973 because he was diagnosed as "Neurosis" and at the time of discharge his disability was assessed at 20% attributed to Military Service. He was granted disability pension of Rs. 59/- per month from 05.06.1973 to 07.03.1975 and Rs. 50/- per month from 08.03.1975 for life was sanctioned vide PPO No. D/6702/1973. He was hospitalized twice in 1974 and 1975 and had an attack of Cerebral seizures from time to time. Then he got himself examined at Senior Neurologist Dr. (Lt. Col.) B. Sahai who treated him and saved his life. After his medical condition stabilized, he was referred to Dr. Rajendra Prasad Centre for Ophthalmic Sciences and Department of Physical Medicine and Rehabilitation, All India Institute of Medical Sciences, New Delhi for clinical investigations and treatment.

Then Petitioner was examined by the AIIMS on 06.09.1990 and was found handicapped to the extent of 75%. He was under the treatment for life time. His vision has also become very weak. It is alleged that when he visited in June, 2002, the Pension Distribution Officer, Delhi for yearly identification, he discovered that the disability pension has two elements i.e. Disability element and Service element and that the payment of Disability element of Petitioner's pension had been discontinued since 08.03.1975 without any reason and without intimating him. Petitioner wrote to the Respondent nos. 4 and 5 on 21.06.2002 and 27.06.2002 in connection with holding a Re-Survey Medical Board and also payment of disability element from 1975. The Petitioner was constrained to file a writ before the Hon'ble High Court of Delhi bearing No. 8320/2002 in December, 2002 praying for the payment of arrears

towards disability pension and hold a Re-Survey Medical Board so as to re-assess the disability percentage of the Petitioner to 75% + 30%. The writ petition was disposed of vide order dated 20.12.2002 and Respondent no. 3 was directed to decide the representations of the Petitioner within a period of three months. That order was not adhered to then Petitioner sent a legal notice dated 26.08.2003 seeking compliance of the order. Petitioner received a letter from Commodore M.N. Ancheri dated 12.09.2003. It was stated therein that all the medical documents of the petitioner have been traced and forwarded to the Base Hospital, Delhi Cantonment for a fresh opinion by the Medical Board and was directed to report to the Medical Hospital accordingly. Then he reported to the Base Hospital, Delhi Cantonment but papers were not reached to the hospital. Then petitioner again issued a fresh legal notice dated 14.10.2003 which was served upon the respondent no.4. Petitioner called upon the respondent no.4 to comply with the order of Hon'ble High Court. Then petitioner received another letter dated 24.11.2003 informing that the medical documents have been forwarded in Base Hospital, Delhi Cantonment. But again he was informed by the hospital that the medical papers have not been received. Then he got fed up and made a representation to the Base Hospital, Delhi Cantonment dated 08.12.2003 to assess the case of increased disability on the basis of Disability Certificate issued by the AIIMS. But Base Hospital, Delhi Cantonment was not agreeable to assess the case of increased disability of the petitioner on the basis of Disability Certificate issued by the AIIMS. Ultimately, on 12.01.2004 he was admitted to a ward of the Base Hospital, Delhi Cantonment but the staff of the hospital did not confirm whether his medical documents had been received or not. He was kept in hospital for 48 hours but no examination or tests were

conducted and he was discharged on 14.01.2004, without any Re-Survey Medical Board having been held.

The Petitioner received a communication on 24.03.2005 from the Respondent no. 5 informing him that he was granted disability element pension of Rs. 310/- from 14.01.2004 for life. He made several representations for increase in disability pension but without any result. Ultimately, after being aggrieved by the inaction of Respondents, he has approached this Tribunal by filing the present petition with the aforesaid relief.

Respondents filed their reply and tried to contest the matter. But we cannot restrain ourselves to express that the way Respondents conducted the whole matter in driving the petitioner from pillar to post by not sending his medical documents in time to the Base Hospital, Delhi Cantonment does not speak very happy on the part of the Respondents. Be that as it may, the fact remains that now the Medical Board proceedings have been placed before us dated 14.01.2004 in which Medical Board has said that he still suffers from 20% disability. So far as the disability which is certified by the AIIMS to the extent of 75%, information has been given by medical board that in fact he has fallen down in 1987 and that has caused him this disability as he has received severe head injury on account of fall. This subsequent event for which the Respondent/UOI cannot be saddled with the liability, however till the 1973 when the Petitioner was invalidated out of services, he is entitled to pension @ 20%.

Learned counsel for the respondents has produced before us PPO showing his disability for life @ 20% and all the payments pertaining to it has been calculated and a revised PPO has already been sent to the present bank and also a copy of the same to the Petitioner. Learned counsel for the

Respondents submits that this PPO has been issued on 23.11.2011 and copy has been given to the Petitioner and it has also dispatched to the bank and it must be in the process of disbursement of payment with the bank. But the fact remains, Respondents has been dragging a man from pillar to post and he should be adequately compensated for this reckless delay on the part of the Respondents. Therefore, Petitioner is entitled to interest @12% from 1975 when disability was diagnosed till he was released revised PPO i.e. 23.11.2011. That amount should be calculated by the Respondents and released within a period of three months from the date of receipt of the copy of this order.

Now the question of broad bending is concerned that has already been sanctioned as mentioned by Respondents in paragraph no. 4 of their reply and a communication dated 10.03.2011 has already been addressed to the PCDA, Allahabad for sending copy of corrigendum PPO. A copy of the said communication dated 10.03.2011 has also been sent to the Petitioner with the instruction that for broadbanded rate of disability pension you are requested to kindly contact your banker to fulfil requisite formalities as per the provisions of para 6 of PCDA(P) Circular no. 429 dated 04.03.2010. Learned counsel for the petitioner submitted that copy of the communication dated 10.03.2011 has not been received by the petitioner till date. The same has now been handed over to the learned counsel for the Petitioner in the court. Respondents are under obligation to see to it that his broadbanding is properly done and Petitioner may approach the bank for compliance of the communication dated 10.03.2011 for broadbanding. So far as pension from 1975 to till date is concerned, we direct that Petitioner is entitled to 20% disability element of pension from 1975 for life and all the arrears should be paid to him.

Respondents shall calculate the interest @12% from 1975 when disability was diagnosed till he was released revised PPO i.e. 23.11.2011 and release the same to the Petitioner within a period of three months from the date of receipt of the order. So far as broadbanding is concerned, Petitioner may approach the bank for completing requisite formalities. The petition is accordingly disposed of. No order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
November 24, 2011