

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI**  
**07.**

**O. A. No. 282 of 2010**

**Ex. Hav. (ACP) Sukhbir Singh**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner:** Mr. D.S. Kauntae, Advocate.

**For respondents:** Mr. Satya Saharawat proxy counsel for Mr. Ankur Chhibber, Advocate.

**CORAM:**

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

**HON'BLE LT. GEN. Z.U. SHAH, MEMBER.**

**ORDER**  
**23.01.2012**

1. Petitioner by this petition has prayed that the impugned order dated 18<sup>th</sup> December 2009 passed by the Respondent No.1 rejecting his claim for grant of disability pension being unsustainable may be quashed. It is further prayed that he should be given a disability pension.

2. Petitioner was recruited in Army service on 14<sup>th</sup> April 1987 in Electrical and Mechanical Engineering Corps as a Clerk. When he was recruited he was in medical category SHAPE-1 and his eye sight was 6/6. Thereafter his sight deteriorated and he was downgraded to low medical category CEE (Temp) with effect from 30<sup>th</sup> January 1991. Initial medical proceedings of 30<sup>th</sup> January 1991 shows that the said disability was acquired in service. The Medical Board also opined that the disease contacted by him was in circumstances over which he had no control. The Petitioner was made a permanent low medical category CEE (P) with effect from 19<sup>th</sup> August 1991.

Meanwhile Petitioner was promoted to the rank of Havildar. Thereafter on the decision taken by the Chief of the Army Staff on 12<sup>th</sup> April 2007 the Petitioner was also ordered to be discharged from service on account of permanent low medical category vide order dated 9<sup>th</sup> October 2007. The Medical Board assessed the disability of the Petitioner to the extent of 60% at the time of his release from service. Petitioner accepted his discharge and did not challenge. However, he filed an appeal against the order rejecting the grant of disability pension which was also rejected on 12<sup>th</sup> May 2008. By order dated 28<sup>th</sup> May 2009, the Petitioner was informed that his first appeal has been rejected by the Army HQ. Aggrieved by this he preferred a second appeal and second appeal was also dismissed. Hence, Petitioner approached this Tribunal by filing the present petition seeking the aforesaid reliefs.

3. A reply was filed by the Respondents and the Respondents pointed out that Petitioner is suffering from Retinitis Pigmentosa and this disease has nothing to do with the service of the Army and it is a disease which is genetic in nature. Learned counsel for the Petitioner submitted that the Medical Board has not recorded this disease and he has also invited our attention to the literature pertaining to Retinitis Pigmentosa.

4. We have heard learned counsel for the parties and perused the record. In the medical report which has been placed on record it is clearly mentioned in page 41 that individual is suffering from bilateral Retinitis Pigmentosa. There is opinion given by the expert which is also on record and which also clearly mentions that Petitioner is suffering from Retinitis Pigmentosa and his

both eyes vision is 6/36 and therefore the authorities have rightly released him from service. The literature which has been submitted by learned counsel for the Petitioner clearly reports that "Retinitis Pigmentosa is a rare, inherited disease in which the light-sensitive retina of the eye slowly and progressively degenerates. Eventually, blindness results." Then it further says that "this means that, even if your mother and father don't have Retinitis Pigmentosa, you can still have the eye disease when at least one parent carries an altered gene associated with the trait. In fact, about 1 percent of the population can be considered carriers of genetic tendencies for Retinitis Pigmentosa." The Army doctor after examining the Petitioner has clearly reported that the aforesaid disease can be inherited from the relations and it has been recorded by the Medical Board that the Petitioner's maternal uncle had this disease and this was inherited from the genes and which manifested in the late 1990's and slowly and slowly it degenerates and the vision reached to the stage of 6/36. Therefore, the findings given by the Medical Board is correct and the non-grant of disability pension is also upheld because this disease has nothing to do with Army service and it is a disease which is generic in nature and inherited from generations to generations. Hence, we do not find any merit in this petition and same is dismissed with no order as to costs.

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

**Z.U. SHAH**  
**(Member)**

**New Delhi**  
**January 23, 2012**  
**dn**