

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

**21.**

**O.A. No. 323 of 2011**

**With M.A. no. 156 of 2012 (Amendment of prayer)**

**Ex Sub Rajender Singh**

**.....Petitioner**

**Versus**

**Union of India & Anr.**

**.....Respondents**

**For petitioner:** Mr. D.V.S. Yadav, Advocate

**For respondents:** Mr. Satya Saharawat, Advocate for R-1 to R-4

Mr. Pravesh Sharma, Advocate for R-5

**CORAM:**

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

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

**ORDER**  
**19.03.2012**

1. Petitioner by this petition prayed that the order dated 21.02.2010 be set aside and directions be issued to release the disability pension and AGI Benefits from the date of discharge i.e. 31.03.2010.
2. For convenient disposal of the case brief facts may be noticed that petitioner was inducted in the Army on 17.03.1982 and he was serving in the field area (Kargil) in the year 2003 to 2005 and acquired Primary Hypertension and was sent for exercise at Lathi (Raj) in the field and during that period a medical board was carried out and the primary hypertension was diagnosed. The findings of medical board was approved on 13.12.2008. The petitioner was granted two years extension of service as he was physically and mentally fit for the army duties even though he was placed in medical category P2 for two years on 13.12.2008. Thereafter he was moved out from Aurangabad to

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Silchar Assam in October 2009 as he was having no medical problem for carrying out army duties. However, that was not accepted and ultimately petitioner was released on account of disability. Then in the year 2010 extension of 2 years service was cancelled vide letter dated 12.01.2010. The petitioner made oral request for further extension of service as he was having nil medical problem. However, that was not accepted and ultimately petitioner was released on account of discharge. Then he filed representation which was rejected on 21.02.2011 hence, petitioner filed the present petition.

3. Reply was filed by the respondents and they contested the matter. After hearing both the parties we passed the order on 14.12.2011 that since the medical board has not given any detailed reasons before rejecting the claim of the incumbent that why it is not attributable to or aggravated by the military service. Therefore, direction was given to the Directorate General of Military Service to constitute the fresh medical board and let the petitioner be examined and give its finding that whether it is attributable to or aggravated by the military service or not.
4. In view of the aforesaid directions medical board was convened on 12 March 2012 and in latest medical board it has been held by the medical board that the disease by which the petitioner is suffering is aggravated by the military service. Therefore, on account of aggravation by the military service petitioner is entitled to be granted 30% disability pension.
5. The petitioner further submits that he had been granted 2 years extension and was discharged in the extended period because of the above medical condition. No relief for this can be granted at this distance of time. He also submitted that in the light of Govt. Of India letter dated 31.01.2011, the 30%

may be rounded up to 50%. The said question is already pending before the Hon'ble Supreme Court. Therefore we only direct that respondent be released 30% of the disability pension to the petitioner within 3 months. For AGI petitioner may approach the appropriate Forum as counsel for respondent no.5 submits that AGIF does not come within the purview of this Tribunal and this Tribunal has already held in another case that AGIF is beyond the jurisdiction of this Hon'ble Tribunal. Therefore, the petitioner may approach the appropriate forum for the same. Petition is allowed in part. No order as to costs.

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

**S.S. DHILLON**  
**(Member)**

**New Delhi**  
**March 19, 2012**  
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