

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

11.

**O. A. No. 363 of 2011**

**Ex. L/Nk (TS) Raj Singh**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner: Mr. Santosh Kumar, Advocate.**

**For respondents: Mr. Satya Sharawat, Advocate.**

**CORAM:**

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

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

**ORDER**  
**22.02.2012**

1. Petitioner by this petition has prayed that the relevant medical records may be called and same be quashed. Petitioner's disability pension may be released to him w.e.f. 6<sup>th</sup> February 1997. The petitioner was enrolled in 1976 and he was discharged from Army in 1992 with 30% disability. He was said to be suffering from Prolapse IV Disc L4/5 and bilateral renal stones. But he was granted disability pension by the PCDA (Allahabad) w.e.f. 1<sup>st</sup> June 1992. The Petitioner's disability was discontinued in 1997. Then an application as filed under RTI Act and it was disclosed that the Medical Board has recommended 20% disability but his application was not acceded to by the PCDA (Allahabad) and his pension was discontinued for a period of five years. Then his case was again sent to the Resurvey Medical Board (RSMB) in 2002. Then on 22<sup>nd</sup> February 2002 the Medical Board assessed his disability as 20% for life. Then again PCDA (Allahabad) by their order dated 5<sup>th</sup> July 2002 rejected the claim of the Petitioner that his disability is less than

20% and same was communicated to the Petitioner by the communication dated 23<sup>rd</sup> July 2002 to which he should prefer an appeal within six months but we do not know whether he filed an appeal or not. But still the Petitioner did not wake up. He filed this petition in 2011 with the prayer that he should be given disability pension right from 1997. Since the Petitioner's disability was rejected in 1997 by PCDA (Allahabad), he did not challenge the same. Therefore the question of granting him disability pension from 1997 is beyond the reach of the Petitioner. However, in 2002 again when he was sent for RSMB his disability was again found to be 20% and again the PCDA (Allahabad) rejected the same. Therefore now the Petitioner has filed this petition challenging this order of the PCDA (Allahabad) in 2011. Here also the Petitioner is guilty of laches that he did not wake up to file the petition when he received the order dated 23<sup>rd</sup> July 2002 that he has not disclosed in his petition that this order was communicated to him but Respondents in their reply have stated that letter was sent on 23<sup>rd</sup> July 2002. Consequently, when he went for RSMB in 2002 how can he plead that he does not know what is the recommendation of the RSMB when he came to know through RTI. There was no prohibition for him to again apply under RTI and get the information as to what was the result of the RSMB. Learned counsel for the Petitioner is trying to plead that the copies were not supplied to him but that did not prevent him to apply under RTI when he himself stated that his counsel applied under RTI and got the information of the previous recommendations of the RSMB of 1997. Be that as it may, now in 2002 the Petitioner has been given 20% disability for life.

2. As we have already held in number of cases that PCDA (Allahabad) has no business to interfere with the recommendations of the Medical Board and the Hon'ble Supreme Court in the case of **Ex. Sapper Mohender Singh v. Union of India (Civil Appeal No. 164 of 1993 decided on 14<sup>th</sup> January 2003)** has already observed that the PCDA (Allahabad) cannot sit over the recommendations of the Medical Board. Therefore so far as denying the pension to the Petitioner by the PCDA (Allahabad) is totally illegal and without jurisdiction. Though this petition has been filed belatedly but since in 2002 RSMB has granted 20% disability for life, therefore, looking into the peculiar facts and circumstances of this case, we condone the delay and direct the Respondents to release the disability pension to the Petitioner @ 20% from the date of filing of this petition i.e. 7<sup>th</sup> September 2011. The pension may be released to the Petitioner within a period of 3 months.

3. With this direction, the petition is allowed in part with no order as to costs.

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

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

**New Delhi**  
**February 22, 2012**  
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