

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

7.

O.A. No. 539 of 2011  
With M.A. No. 489 of 2011

Ex. Sep (CPTR) Anil Kumar Yadav

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. S.S. Pandey, Advocate.  
For respondents: Dr. S.P. Sharma, Advocate.

**CORAM:**  
HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.

**ORDER**  
**07.09.2012**

**M.A. No.489/2011**

Petitioner has filed this application under Section 22 (2) of the Armed Forces Tribunal Act, 2007 read with Section 5 of the Limitation Act for condonation of delay of 494 days. Delay is condoned for the reasons mentioned in the application.

**O.A. No.539/2011**

1. Petitioner, vide this petition, has prayed that the finding of the Release Medical Board may be quashed which found the disability of the petitioner neither attributable to nor aggravated by military service. He also prayed for passing a direction to the respondents to pay disability pension to the petitioner as assessed by the Release Medical Board w.e.f. 01.02.2010 along with arrears with interest @ 18% per annum.

2. Petitioner was enrolled in the Army on 26.07.2002 and in October, 2003 he was posted to Assam and in December, 2004 he was found to have episodes of Generalised Tonic Seizures and subsequently was diagnosed a case of CNS (INV) Seizures. In the year 2005, when the petitioner was posted at Gurgaon, Haryana he complained of the seizures and went to the medical board in Base Hospital. Thereafter, in February, 2009 the petitioner got posted to 36 Infantry Division Provost Unit, Saugor, M.P. Because of this CNS (INV) Seizures the petitioner applied for voluntary discharge and he was placed before the Release Medical Board and the Release Medical Board was finalised on 18.12.2009 and the petitioner was found to be suffering from CNS (INV) Seizures and assessed the disability to the extent of 20%, but he was stated that it is not aggravated or attributed to military service. Hence, the petitioner was not granted any disability pension. Thus, the finding of the Release Medical Board has categorically stated that the petitioner was serving in the peace area, therefore, the decrease of CNS (INV) Seizures is not related to military service. Thereafter, the petitioner approached this Tribunal.

3. Reply has been filed by the respondents. The respondents have contested the matter and traversed all the grounds raised by the petitioner.

4. After going through the matter since this is a finding of the medical board, therefore, we do not want to interfere, at this stage, because the petitioner has right to appeal against the finding of Release Medical Board, which he has not availed. It will be open for the petitioner to file an appeal against the order of the Release Medical Board and let the Appeal Medical Board may examine all the aspects in the light of various judgments delivered

by this Tribunal that whether the petitioner's seizure can be attributed to or aggravated by military service. Learned counsel for the respondents submits that period of filing of the appeal has already expired. Be that as it may, we direct that the petitioner may file an appeal within four weeks' time and the appeal may be decided by the Appellate Medical Board as soon as possible within three months thereafter.

5. The petition is disposed of with the above observations. No orders as to costs.

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

**M.L. NAIDU** ✓  
(Member)

New Delhi  
September 07, 2012  
rsk