

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

23.

MA 4019/2022 with MA 2152/2023 & 2705/2023 in OA
760/2015

Ex Rfn Brij Kishore Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. S S Pandey, Advocate
For Respondents : Mr. Neeraj, Sr CGSC with
Mr. Rudra, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

ORDER
21.05.2024

The applicant vide the present MA 4019/2022 had made the following prayers:-

- “(a) Clarify/modify the order dated 07.05.2019 by issuing directions to the respondents to grant the Applicant the disability pension @ 75% instead of 50% as applicable, in accordance GoI MoD Policy letter dated 31.01.2001 also accordingly, grant the arrears i.r.o the difference of awarding 75% instead of 50% till the date of realization of enhanced pension,*
- (b) and thereafter directions may be issued to the Respondents to hold a Re-assessment Medical Board for assessing the existence of disablement in the Applicant,*
- (c) Issue any other/further direction as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.”*

2. Vide order dated 07.05.2019 in OA 760/2015, it had been directed vide paragraphs 21 and 22 to the effect:-

“21. In the light of preceding paragraphs and essential parameters given aforesaid, we hereby set aside the impugned

orders rejecting the claim of the applicant for disability pension and order that the applicant is entitled for disability pension @ 50% for a period of two years from the date of invalidment.

22. Respondents are directed to calculate, sanction and issue necessary PPO for grant of disability pension @ 50% to the applicant for the period mentioned above, within a period of 4 months from the date of receipt of copy of this order."

3. Vide proceedings dated 02.01.2024 in MA 4019/2022, it is indicated that the applicant had been called upon to report to the Medical Board Section of the Base Hospital, Delhi Cantt. On behalf of the respondents has now been submitted a copy of letter dated 15.02.2024 of the OIC Records along with the copy of Re-Assessment (RAMB) Review Medical Board proceedings dated 19.01.2024 which indicate that the disability of the applicant i.e. Seizure (INV) 780 (d) has been assessed at a percentage of disablement @50% for life. As has already been observed vide the order dated 07.05.2019 in OA 760/2015 *qua* the said disability of the applicant vide para 21 he has been held entitled for the disability element of pension for the said disability.

4. In view thereof, the applicant in terms of the order dated 07.05.2019 in OA 760/2015 and the assessment done by the re-assessment (RAMB) Medical Board Proceedings which has apparently opined that the applicant suffers from a disability of Seizure with percentage of disablement of 50% for life, in terms of the verdict of the Hon'ble Apex Court in *UoI vs. Ram Avtar* decided on 10.12.2014 and para 7.2 of the MoD Letter No. 1(2)/97/D (Pen-C) dated 31.01.2001 the applicant is thus

held entitled to the same and the order dated 07.05.2019 in OA 760/2015 is modified accordingly.

5. The corrigendum PPO *qua* the applicant be issued by the respondents within a period of two months of the receipt of this order and the arrears for the grant of disability element of pension be also paid to the applicant within the said period of time failing which the applicant would be entitled to the interest @6% p.a. till the payment of the entire arrears.

6. The MA 4019/2022 is disposed of accordingly.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN P.M. HARIZ)
MEMBER (A)