

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

57.

OA 718/2023 with MA 4407/2024

Ex PO (CD-1) Satish Kumar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Rajesh Nandal, Advocate
For Respondents : Mr. V.S Mahndiyan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
14.10.2024

MA 4407/2024

For the averments made in the application, delay in filing the counter affidavit is condoned. Counter affidavit is taken on record. MA stands disposed of.

OA 718/2023

2. Even though the matter is listed today for completion of pleadings but taking note of the short question involved in the matter we propose to dispose of the matter by this order.
3. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and prayer & reads as under:-

“(a) Direct the respondents to order RSMB in respect of the applicant as early as possible so that he is not denied his legitimate dues on account of disability

element of pension which are required for living a dignified life at this stage.

(b) Direct respondents to initiate his case for disability element of pension in case his disability is assessed at 20% or more and

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents."

4. As far as prayer 8(a) is concerned we find that the applicant was discharged from service on 31st August, 2015 in medical category SHAPE-1 after completing 15 years of service. Thereafter he sought for conduct of RSMB before the competent authority vide letter dated 17.08.2022 on the ground that he has contracted certain ailments within 07 years of his discharge. Respondents have filed the counter affidavit and have resisted the claim on merit indicating that the applicant does not have any disability. Without entering into the controversy on merit based on the objections raised by the respondents the simple issue before this Tribunal as on date is with regard to prayer 8(a), that to whether, an RSMB can be conducted in the facts and circumstances of the case.

5. Considering the fact that the applicant is seeking for conduct of RSMB within a period of 07 years of his discharge even after being discharged in Shape-1 and as per policy

letter No. 1(3)/2002/D(Pen/Pol) dated 18.01.2009 Entitlement Rule 8(a) issued by Ministry of Defence, he is entitled for the same.

6. We, for the present, without entering into any controversy direct that on applicant filing of this order along with his application dated 17.08.2022 before the competent authority, the competent authority shall take steps for constituting the RSMB, get the applicant examined and forward the report to the applicant. The applicant is directed to ensure that he appear before the appropriate medical board on receipt of notice for conduct of RSMB. The entire process in pursuance to hereinabove be completed within three months.

7. OA stands disposed of.

8. Let a copy of this order be provided *DASTI* to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)