

**COURT No.1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA 1331/2019  
with  
MA 2071/2019**

**Ex Rect Ranjan Kumar Singh** ..... **Applicant**  
**Versus**  
**Union of India and Ors.** ..... **Respondents**

**For Applicant** : Mr. Ved Prakash, Advocate  
**For Respondents** : Mr. Arvind Kumar, Advocate

**CORAM**  
**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)**

**ORDER**

**MA 2071/2019**

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in **Union of India and others** Vs. **Tarsem Singh** [(2008) 8 SCC 648], the MA is allowed condoning the delay in filing the OA.

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2. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA and has made the following prayers:

**"(a) Quash the Impugned Orders No. B/40502/1882/06/AG/PS-4(Imp-II) dated 31.08.2007 and No G-3/80/563/11-08 dated 24.04.2006.**

**(b) Direct the respondents to grant disability pension to the applicant duly round off to 75% w.e.f his date of discharge.**

**OR**

**(c) Direct respondents to pay the due arrears of disability Pension with interest @12% p.a from the date of retirement with all the consequential benefits.**

**(d) 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."**

3. The applicant was enrolled in the Indian Army in Army Service Corps (ASC) on 06.02.2003. While serving, on 11.09.2003, the applicant suffered with a disability, namely, LEPROSY BT (A-30). On 21.10.2004, the Invalid Medical Board of the applicant was conducted and the disability of LEPROSY BT (A-30) was assessed @ 50% for two years and the same was held as neither attributable to nor aggravated by military service. Thereafter on 14.11.2004, the applicant was invalided out from service in Low Medical Category (LMC) after rendering approximately 01 year, 09 months and 08 days of service.

4. The initial claim of the applicant for the disability pension was rejected by PCDA (P), Allahabad vide their letter No.G-3/80/563/11-08 dated 29.04.2006. Against the said rejection, the applicant preferred a 1<sup>st</sup> Appeal dated Nil which was rejected by AGPS-4 vide their letter No.B/40502/1882/06/AG/PS-4(Imp-II)

dated 31.08.2007. Thereafter, the applicant submitted 2<sup>nd</sup> Appeal dated 23.01.2019 against the rejection of 1<sup>st</sup> Appeal for disability pension but as submitted by the applicant neither any action has been taken nor any reply has been received by him. However, from the counter affidavit it is revealed that vide ASC Records (South) letter No.14830438H dated 28.03.2019 (Annexure R-7), the 2<sup>nd</sup> appeal was decided and the decision communicated to the applicant. Aggrieved by the rejections, the applicant has approached this Tribunal.

5. Placing reliance on the judgement of the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs. Union of India and Ors.** [2013 (7) SCC 36], learned counsel for applicant argues that after thorough medical examination the applicant was commissioned into military service and there was no note of any disability recorded in his service records. It is further contended that he served in the Army at various places in different environmental and service conditions in his prolonged service; therefore, any disability occurring during the period of his service is deemed to be attributable to or aggravated by military service.

6. Per contra, learned counsel for the respondents submits that as per Regulation 173 of Pension Regulations for the Army, 1961,

Part-I, the primary condition for grant of disability pension is unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided out from service on account of a disability which is attributable to or aggravated by military service and disability is assessed at 20% or more. In the instant case, percentage of disability of the applicant has been assessed @ 50% for two years by Invalid Medical Board, disability being neither attributable to nor aggravated by military service. Hence, the applicant is not entitled for disability element as stipulated in Pension Regulation for Army, 1961, (Part-I) and as such, his claim was rejected; thus, the applicant is not entitled for grant of disability pension due to policy constraints.

7. Applying the above parameters to the case at hand, we find no infirmity in the opinion of the Medical Board and are of considered view that the disability LEPROSY BT (A-30) @ 50% for two years cannot be attributed to service and hence, the prayer seeking grant of disability pension is not sustainable.

8. However, with respect to the alternate oral prayer made by the learned counsel for the applicant during the course of hearing, keeping in view that the mandatory requirement of minimum 10 years service for grant of invalid pension has been dispensed

with vide Govt. of India, Ministry of Defence letter No.12(06)/2019/D(Pen/Pol) dated 16.07.2020, and subsequently, the stand taken by this Tribunal in the case of **Lt. A.K. Thapa Vs. Union of India & Ors.** (OA No.2240/2019) vide its judgement dated 07.07.2023 and judgement dated 11.03.2022 in the case of **Ex Rect Chhote Lal Vs. Union of India & Ors.** (OA No.368/2021), wherein the requirement of the Armed Forces Personnel to be permanently incapacitated from civil re-employment as well (apart from permanent incapacitation from military service) for the grant of the invalid pension in terms of the Govt. of India, Ministry of Defence letter No.12(06)/2019/D(Pen/Pol) dated 16.07.2020, and the cut-off date for applicability has been held to be wholly arbitrary and unconstitutional and violative of Article 14 and Article 16 of the Constitution of India and the said requirement has thus been set aside and the same has been affirmed by the Hon'ble Punjab and Haryana High Court vide its judgement dated 28.08.2024 in the case of **Union of India and Others Vs. Ex AC UT Ravinder Kaushik and Anr** (CWP No.21064/2024), we see no reason not to allow the prayer of the applicant with regard to the grant of invalid pension.

9. Therefore, in our considered view, the OA deserves to be allowed to the extent of the grant of invalid pension.

10. Accordingly, we direct the respondents to grant invalid pension to the applicant from the date of invalidment, i.e., 14.11.2004. However, the arrears shall be restricted to three years prior to the date of filing of OA keeping in view the law laid down in the case of **Union of India and others Vs. Tarsem Singh** [(2008) 8 SCC 648].

11. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order failing which the applicant shall be entitled to interest @ 6% per annum till the date of payment.

12. No order as to costs.

13. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 18<sup>th</sup> day of October, 2024.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

(LT GEN C.P. MOHANTY)  
MEMBER (A)

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