

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

17.

OA 2934/2024

Hav P Manjunathan (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Trilok Chand, Proxy for
Mr. U S Maurya, Advocate
For Respondents : Ms. Garima Sachdeva, Advocate

CORAM

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

ORDER
13.08.2024

The applicant vide the present OA makes the following prayers :-

“(a) Direction to Respondents to set aside the Pension Regulations for the Army 2008 (Parts-I and II), The Entitlement Rules for the Casualty Pensionary Award to Armed Forces Personnel- 2008 and 2023 being are not made after due follow the procedure laid down in section 191 to 193A of Army Act, 1950 and not Gazette Notified till date which is mandatory condition. Whereas the Pension Regulations for the Army 1961 (Parts-1 and II) and The Entitlement Rules for the Casualty Pensionary Award to Armed Forces Personnel- 1982 are Gazette Notified (Annexure A-14 Colly).

(b) Direct Respondents to grant Disability Pension wef 01-05-2023 (next date of discharge) (Service Element & Disability Element) and Disability Element after rounding off from 20% to 50%; with 12% interest as DSC persons who discharged on LMC vide IHQ of MoD

letter No. B/10185/DSC/MP-5 dated 03.05.2018 and granted Disability Pension of Both Element (Service and Disability Element) before the order of this Tribunal (Annexure A-6 Colly) and applicant's disease TYPE-II DM originated first time after 32 years of service in Armed Forces and respondents denied for grant of Disability Element only on the ground of disability occur in Peace Station & Neither Attributable Nor Aggravated (NANA). Applicant case is squarely covered on the matter of PEACE STATION vide page No. 26 of Raksha Mantri's Committee of Experts-2015, there is no linkage with 'peace' or 'field' service as far as attributability of disabilities is concerned and same has been adjudicated in many orders/judgements of Hon'ble Armed Forces Tribunal including Sgt Dharmendra Kumar Jha Vs. UOI & Ors. (OA 360/2013 order dated 20-08-2014 by Hon'ble AFT (PB) New Delhi. On the matter of disease neither attributable to nor aggravated by military service by the Hon'ble Supreme Court in the case of Dharamvir Singh Vs. Union of India & Ors (Civil Appeal No. 4949 of 2013 judgment dated 02.07.2013), Union of India Vs. Rajbir Singh (Civil Appeal No. 2904 of 2011 judgment on 13.02.2015 along with the 26 connected appeals), Union of India & Ors. Vs. Angad Singh Titaria (Civil Appeal No. 11208 of 2011 judgment on 24.02.2015) and latest judgment Ex. Gnr. Laxmanram Poonia (Dead) Through Lrs. Vs. Union of India and Ors. (Civil Appeal No. 2633 of 2017 judgment dated 22.02.2017) and on the matter of Disability Element of Disability Pension applicant case is no longer res integra, as the same had already been settled by this Hon'ble Tribunal in the cases of Ex MWO Honey FO

Gaukaran Nath Dudey Vs. Union of India & Ors. (OA 1742/2019 order dated 03-11-2023 by Hon'ble AFT (PB) New Delhi on disease TYPE-II DM (Annexure A-12 Colly).

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."

2. A perusal of the order indicates that the first appeal of the applicant was rejected on 18.04.2024. In the circumstances, the present OA is disposed of with directions to the respondents to treat the present OA as the second appeal, to be disposed of by the respondents within a period of three months from today.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

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

Yogita