

COURT NO. 3  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA 984/2019

WITH

MA 1647/2019

Ex Sgt Rameshwar Dayal	.....	Applicant
Versus		
Union of India and others	.....	Respondents

For Applicant	: Mr. Praveen Kumar, Advocate
For Respondents	: Mr. K.K. Tyagi, Sr.CGSC

CORAM:

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

Dated: August, 2025
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ORDER

MA1647/2019

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay in filing the present OA. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Tarsem Singh [(2008) 8 SCC 648] and the reasons mentioned in the application, the delay in filing the OA is condoned. The MA is disposed of accordingly.

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2. Aggrieved by the impugned order dated 27<sup>th</sup> March, 2006, denying him disability pension, the applicant has filed the instant O.A seeking the following reliefs:

- (a) *Quash and set aside the impugned letter dated 31 May, 2017.*
- (b) *Direct Respondents to grant of disability pension @ 30% and rounding off the same to 50% for life to the applicant with effect from 01 Dec 2005, i.e., the date of discharge from service with interest @ 12% p.a. till final payment is made.*
- (c) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

3. The brief facts, as averred, are that the applicant was enrolled in the Indian Air Force on 25<sup>th</sup> November, 1985 and on completion of initial term of engagement was discharged from service on 30<sup>th</sup> November, 2005 in permanent low medical category 'BEE (P)' on account of his disability "SCHIZOPHRENIA". The Release Medical Board (RMB) held on 20<sup>th</sup> May, 2005 viewed his disability "SCHIZOPHRENIA" as Neither Attributable to Nor Aggravated (NANA) by military service and assessed the same @ 30% for five years. Accordingly, the disability pension claim of the applicant was rejected by Air HQ, Directorate of Air

Veterans, New Delhi. The onset of the disability, as averred, was on 5<sup>th</sup> February, 2005 while posted at New Delhi. On rejection of his disability claim, a legal notice dated 13<sup>th</sup> November, 2011 was served on the respondents who replied the same vide their letter dated 8<sup>th</sup> April, 2019 denying disability pension.

4. The contention of learned counsel for the applicant is that at the time of enrolment into Air Force service the applicant was in physically and medically fit condition, any disability not recorded at the time of enrolment should be presumed to have been caused during military service and, therefore, the action of the respondents in not granting disability pension to him is illegal. It is also submitted that personnel of the armed forces undergo tough exercise and sometimes feel psychological impact due to stress and strain of service. It is submitted that after completion of his training, the applicant was detailed to carry out trade duties assigned to him and due to service conditions he was forced to stay alone away from his family while on courses, training and exercises which added to his stress and strain of military service.

5. To substantiate his argument learned counsel for the applicant placed reliance on the decision of the Hon'ble Supreme Court in the case of Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316] and submitted that for the purpose of determining attributability of the disease to military service, what is material is whether the disability was detected during the initial medical tests and if no disability was detected at that time, then the presumption is that the disability arose while in service and in view thereof the disability of the applicant is to be considered as aggravated by service and he is entitled to grant of disability pension @ 30% to be rounded off to 50% for life.

6. The respondents have filed the counter affidavit. Their contention is that the reason for denying disability pension to the applicant is explicitly clear from the RMB which has opined that the disability of the applicant "SCHIZOPHRENIA" is NANA. It is submitted that the recommendations of the RMB were also adjudicated by AOC AFRO who upheld the same and rejected the disability pension claim of the applicant vide letter No.RO/3305/3/A/Med Cat (D) dated 20<sup>th</sup> March, 2006 which was also communicated to the applicant vide

letter                      No.RO/2703/701434/11/05/P&W                      (DP/RMB)

dated 27<sup>th</sup> March, 2006. In the said letter the applicant was also advised to prefer an appeal to the Appellate Authority within six months of the receipt of the letter in case he was not satisfied with the said decision. The respondents, however, submit that in spite thereof, as is evident from the record, it is approximately 12 years and 8 months from the date of rejection of his disability claim that the applicant filed the appeal on 10<sup>th</sup> October, 2018. Vide Air HQ letter No.99798/5/701434/TBS/Appeal/AV-III dated 17<sup>th</sup> December, 2018, the applicant was informed that his appeal being time barred; filed beyond the permissible limit of five years prescribed in MoD Letter No.1(3)/2008/D (Pen/Pol) dated 17<sup>th</sup> May, 2016 could not be considered.

7. Further contention of the respondents is that disability pension is granted only to those individuals who fulfil the twin criterion stipulated under Para 153 of the Pension Regulations for the Indian Air Force 1961 (Part I) and since the applicant's disease "SCHIZOPHRENIA" has been opined by the RMB as NANA and not connected with service the claim of disability pension and the prayer for rounding off have rightly been rejected and thus prayed

for dismissal of the O.A. Para 153 of the Pension Regulations reads as under:

*“ Unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by Air Force service and is assessed at 20% or over. In other words, a disability pension is granted only to those who fulfil the following two criteria simultaneously:*

*(a) Disability must either be attributable to or aggravated by service;*

*And*

*(b) Degree of disablement should be Assessed at 20% or more.”*

8. Respondents have further submitted that in spite of the fact that the applicant, after rejection of his disability claim, was advised to file the first appeal within six months of the passing the rejection order, it took almost thirteen years for him to file the first appeal and, therefore, on that count also the disability claim of the applicant is liable to dismissed.

9. Further submission of learned counsel for the respondents is that in a catena of judgments the Hon'ble Supreme Court has held that unless otherwise contradicted by any other Medical Board by convincing evidence, due credence, value and weight has to be given to the opinion of the Medical Board and it generally cannot be interfered with by the Court or Tribunal.

10. In support of his submission, learned counsel for the respondents placed reliance on the observations made in para 11 of the order of this Tribunal in the case of Ex MWO Munni Lal Ram Vs. Union of India and Ors. (OA 619/2017) decided on 6<sup>th</sup> March, 2018 which reads as under:

*“We, as a Tribunal cannot sit as a court of appeal or as an appellate court to find out the correctness of the decision of the expert bodies. Neither we have the knowledge or the wherewithal to question the findings of the expert bodies to hold that the Respondents’ quantification of disability of the Applicant @ 15-19% which was neither attributable nor aggravated by military service is erroneous. We find that the Respondents has rightly denied the disability component of the pension to the Applicant.”*

11. It is the further contention of learned counsel for the respondents that medical test at the time of entry is not exhaustive and is limited to broad physical examination and may not detect some dormant diseases and in this connection he refers to Rule 5 of the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 which reads as under:

*“The medical test at the time of entry is not exhaustive, but its scope is limited to broad physical examination. Therefore, it may not detect some dormant disease. Besides, certain hereditary constitutional and congenital diseases may manifest later in life, irrespective of service conditions. The mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.” (emphasis supplied)*

12. It is further contended on behalf of the respondents that certain diseases may be undetectable by physical examination and any disorder not mentioned at the time of enrolment cannot be presumed to be attributable to or aggravated by military service and reliance is placed on paras 15 and 16 of the judgment of the Hon'ble Supreme Court in the case of Ex CFN Narsingh Yadav Vs. Union of India and Ors. (Civil Appeal No.7672/2019) decided on 3<sup>rd</sup> October, 2019, which read as under:

*"15. We find that it is not mechanical application of the principle that any disorder not mentioned at the time enrolment is presumed to be attributed to or aggravated by military service. The question is as to whether the person was posted in harsh and adverse conditions which led to mental imbalance.*

*16. Annexure I to Chapter IV of the Guide to Medical Officers (Military Pensions), 2002 – "Entitlement: General Principles" points out that certain diseases which may be undetectable by physical examination on enrolment including the Mental Disorders; Epilepsy and Relapsing forms of mental disorders which have intervals of normality, unless adequate history is given at the time by the member. The Entitlement Rules itself provide that certain diseases ordinarily escape detection including Epilepsy and Mental Disorder, therefore, we are unable to agree that mere fact that Schizophrenia, a mental disorder was not noticed at the time of enrolment will lead to presumption that the disease was aggravated or attributable to military service."*

13. We have heard learned counsel for the parties and perused the RMB. For the decision of the matter at hand the only question



that needs to be answered is whether the disease of the applicant is attributable to or aggravated by Military service.

14. On careful scrutiny of the record and as is evident from the statement made in Column IV Part III of the Medical Board Proceedings, the applicant belongs to the cadre of Clerk EA and had been assigned work related to trade duties. The applicant since the year 2000 was allowed and had been living with his family. The onset of the disability of the applicant, as per medical records available, is in February 2005 and as is seen from the record he was living with his family at least since 2000, therefore, his contention that he was not allowed to stay with his family which, as per his statement, resulted in the disability of “SCHIZOPHRENIA”, cannot be accepted.

15. For the purpose of decision of this OA, it is also relevant to note that the RMB assessed the disability of the applicant “SCHIZOPHRENIA” @ 30% for five years and he was getting disability element of pension. It is an undisputed fact, as is evident from the record, that the applicant never underwent a Resurvey Medical Board and consequently it is the RMB proceedings that will be having primacy. In this regard we may also refer to Para 3

of the Government of India Policy letter No.1(2)97/D(Pen-C) dated 7<sup>th</sup> February, 2001 which reads as under:

*"Para 3 – Assessment: The assessment with regard to the percentage of disability as recommended by the Invaliding Medical Board/Release Medical Board as approved by the next higher medical authority, would be treated as final unless the individual himself requests for a review."*

16. That apart, the Hon'ble Supreme Court *Ex Cfn Narsingh Yadav (supra)* has held that mental disorders cannot be detected at the time of recruitment and their subsequent manifestation does not entitle an individual for disability pension unless there are very valid, cogent reasons and strong medical evidence to dispute the opinion of Medical Board.

17. In view of the aforesaid discussion the instant O.A., being devoid of merit, deserves to be dismissed and is accordingly dismissed.

18. Pending application(s), if any, also stand disposed off.

Pronounced in the open Court on 5<sup>th</sup> August, 2025.

(JUSTICE NANDITA DUBEY)  
Member (J)

(RASIKA CHAUBE)  
Member (A)

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