

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

93.

OA 2214/2024 with MA 2642/2024

Ex Rect Rama Shankar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN SHASHANK SHEKHAR MISHRA, MEMBER (A)

ORDER
17.09.2025

OA 2214/2024

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA seeking the following reliefs:

- (a) To quash the Impugned Letter No. 7788740H/NE (D-Pen) dated 08.05.2023.
- (b) To direct the respondents to grant Invalid Pension.
- (c) To direct the respondents to pay the arrears of pension with interest @ 12% per annum.
- (d) To grant any other relief which the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, along with costs of the application in favour of the applicant and against the respondents.

2. The applicant was enrolled in the Indian Army on 29.09.2018. While in service, in November 2018, the applicant was

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diagnosed with Panic Disorder. He was invalided out from service in low medical category on 16.03.2019. An Invaliding Medical Board was held at the time of invalidment of the applicant. The Board assessed his degree of disablement at 40%. However, the same was reduced to NIL% by stating that the disability was neither attributable to nor aggravated by military service. The Record Office rejected his claim for disability pension vide letter dated 19.06.2019. The applicant filed a first appeal on 02.08.2019 for grant of disability pension. The applicant also sent a representation for reinstatement in service on 02.08.2019. The first appeal of the applicant was rejected by the AG Branch vide letter dated 06.11.2019. The applicant thereafter filed O.A. No.132 of 2020 before the Lucknow Bench of the Tribunal for reinstatement in service. The applicant alternatively prayed for disability pension. The said OA was dismissed vide order dated 07.04.2021. The Government of India, Ministry of Defence, issued letter dated 16.07.2020 in which the 10 years' service condition was removed for grant of invalid pension. The applicant sent a legal notice-cum-representation on 14.03.2023 for grant of invalid pension as per the new policy dated 16.07.2020. He was denied invalid pension by the respondents stating that the Invaliding Medical Board had not held the applicant unfit for civil employment. Hence the present OA has been filed seeking the aforesaid reliefs.

3. Placing reliance on the judgment of the Hon'ble Supreme Court in *Dharamvir Singh Vs. Union of India and Ors.* [2013 (7) SCC 36], learned counsel for the applicant argues that after

thorough medical examination the applicant was enrolled 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 during his service; therefore, any disability occurring during the period of his service is deemed to be attributable to or aggravated by military service.

4. Per contra, learned counsel for the respondents submits that as per Regulation 173 of the Pension Regulations for the Army, 1961, Part-I, the primary condition for grant of disability pension is that 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 the disability is assessed at 20% or more. In the instant case, the percentage of disability of the applicant was assessed at 40%, however, the same was reduced to NIL% by stating that the disability was neither attributable to nor aggravated by military service. Hence, the applicant is not entitled to disability element as stipulated in the Pension Regulations for the Army, 1961 (Part-I) and as such his claim was rejected. Thus, the applicant is not entitled to grant of disability pension due to policy constraints.

5. Applying the above parameters to the case at hand, we find no infirmity in the opinion of the Invaliding Medical Board and are of the considered view that though the disability Panic Disorder was initially assessed at 40%, it was reduced to NIL% being not attributable to nor aggravated by military service. Therefore, it

cannot be attributable to service, and accordingly, the prayer seeking grant of disability pension is not sustainable.

6. However, during the course of submissions at final hearing, learned counsel for the applicant very fairly made an alternate oral prayer for grant of Invalid Pension to the applicant. 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 v. Union of India & Ors.* (OA No.2240/2019) vide judgment dated 07.07.2023 and judgment dated 11.03.2022 in the case of *Ex Rect Chhote Lal v. Union of India & Ors.* (OA No.368/2021), wherein the requirement that the Armed Forces personnel must be permanently incapacitated from civil re-employment as well (apart from permanent incapacitation from military service) for the grant of 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 Articles 14 and 16 of the Constitution of India and the said requirement has thus been set aside, which has also been affirmed by the Hon'ble Punjab and Haryana High Court vide its judgment dated 28.08.2024 in *Union of India and Others v. 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. Therefore, in

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

7. Accordingly, we direct the respondents to grant invalid pension to the applicant from the date of invalidment i.e. 16.03.2019. However, the arrears shall be restricted to three years prior to the date of filing of the OA, keeping in view the law laid down in *Union of India and Others v. Tarsem Singh* [(2008) 8 SCC 648]. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of a copy of this order, failing which the applicant shall be entitled to interest @ 6% per annum till the date of payment.

8. No order as to costs.

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


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[LT GEN SHASHANK
SHEKHAR MISHRA]
MEMBER (A)

/JYOTI/