

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

8.

OA 3640/2025 with MA 5406/2025

Ex Sep Balakrishna Sakhram Sangare Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Prashant, Advocate
For Respondents : Mr. Vishal Meghwal, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
17.11.2025

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, applicant has filed this Application and claims grant of disability pension assessed @ 20% for life rounded off to 50%.

2. Facts on record indicate that the applicant was enrolled in the Indian Army on 09.02.1973. While working for various periods between 1973-1977 the applicant was finally diagnosed with DRACONTIASIS and his medical category was down graded to low medical category. Finally, on account of his low medical category and on the ground that he would not become an efficient soldier, he was discharged from service on 19.08.1977 i.e. 47 years back.



Claiming that he was discharged on medical grounds for the ailment which is attributable to military service, he has claimed the aforesaid benefit. However, records indicate that after his discharge on 19.08.1977, the applicant kept quiet and did not raise any objection or make any claim. It was only on 25.08.2024 that he submitted a representation for grant of disability pension. This was replied to by the respondents on 23.12.2024 and it was pointed out to the applicant that now after such a long period of time, his entire service record has been destroyed in accordance with the provisions of Section 595 of the Defense Service Regulation for the Army 1987 which contemplates destruction of record after 25 years and on the ground that now after 47 years of his discharge, due to non availability of any medical record, his claim cannot be processed.

3. Seeking condonation of 47 years of delay i.e 17520 days the applicant has filed MA No.5406/2025 under Section 22 of AFT Act, 2007 and submits that pension is a continuous right and it cannot be rejected on the ground of delay and placing reliance on a judgment of Hon'ble Supreme Court in the case of Union of India and others Vs.

Tarsem Singh [(2008) 8 SCC 648] submits that even on the ground of delay except for withholding arrears of pay and restricting it to three years the claim cannot be rejected as grant of pension is a continuous cause of action. As far as the explanation of 47 years of delay is concerned, the applicant is only submitting that as he was not aware of the legal remedies available, he was unable to approach this Tribunal.

4. Respondents raised a preliminary objection to say that no reasonable justification for delay has been given by the applicant and as none of his records are now available after more than 47 years they are unable to defend themselves in the matter.

5. In our considered view, there is an inordinate, unexplained delay on the part of the applicant in invoking the jurisdiction of this Tribunal. According to the statutory provisions contemplated in Section 22 of AFT Act, a statutory limitation period is provided for invoking the jurisdiction of this Tribunal. Section 22 of the Act contemplates that in case where final order as mentioned in Section 21 has been made then the application has to be filed within six months from the date of passing of such final order.

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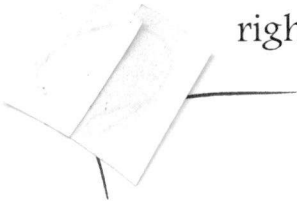
6. Admittedly, the period of limitation as contemplated under Section 22 (a)(b) and (c) is already over and the application for condonation of delay does not give any reason for the delay. Section 22 and the provision for condonation of delay contained therein is *akin* to Section 5 of the Limitation Act, 1963 whereby the delay has to be properly explained. In this case no explanation for the delay is available.

7. That apart, the law laid down in the case of Tarsem Singh (*supra*) will not help the applicant in the present case as his discharge from service is under Army Rule 13(3) Item III(v) i.e. on medical grounds on account of no sheltered appointment being available.

8. Even if the discharge is on medical grounds, the applicant would be entitled for disability pension only if the disability because of which he was discharged is found to be attributable to or aggravated by military service. Merely because someone is discharged on medical grounds does not automatically entitle him to claim disability pension. The legal right to claim disability pension arises only when the disability is attributable to or aggravated by military service

and therefore, for granting disability pension to the applicant, this Tribunal is required to go through the entire medical record and service record of the applicant, his posting profile, his annual medical reports and other documents to assess as to whether the disability for which he was discharged is attributable to or aggravated by military service. In the absence of any record of service of the applicant being available, a finding to the effect of an inquiry into this aspect of the matter is now not possible.

9. Regulation 525 of the Army Regulation contemplates that a record has to be maintained only for a period of 25 years after discharge of a person and thereafter it is to be destroyed and respondents have produced documents showing destruction of applicant's record more than 22 years back. That being so, this Tribunal is now handicap in recording a finding with regard to the disability of the applicant and once an inquiry with regard to the disability is not possible, the entitlement under law to receive pension cannot be adjudicated and therefore, when the issue with regard to entitlement of pension cannot be adjudicated, the right to receive pension being beyond the purview of judicial



adjudication, in this case, on account of the fact that the applicant slept over the matter for 47 years the judgment in the case of **Tarsem Singh** will not apply as the pre condition for applicability of the said judgment would be existence of a legal right to receive disability pension and this legal right cannot be adjudicated in the present matter on account of non-availability of medical and service documents.

10. That being so, in the peculiar facts and circumstances of this case, we see no reason to admit this OA and cause an inquiry into the same as inquiry into the matter is not at all possible for the reasons indicated hereinabove. The MA seeking condonation of delay is dismissed consequently the OA.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON



[RASIKA CHAUBE]
MEMBER (A)

/vb/