

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

77.

OA 59/2023 WITH MA 88/2023

JWO Ajeet Kumar Pandey (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate
For Respondents : Mr. K K Tyagi, Sr. CGSC

CORAM

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

ORDER
24.11.2025

MA 88/2023

This application has been filed by the applicant for seeking condonation of delay in filing the OA 59/2023.

2. However, as the legal notice sent by the applicant's counsel was rejected/responded to vide impugned order dated 11.11.2022 and the OA has been filed within six months of the same, the delay in filing the OA is condoned.

3. Accordingly, the MA stands disposed of.

OA 59/2023

4. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

“(a) Quash and set aside the impugned letter dated 11 Nov 2022.

(b) Direct respondents to grant disability Pension @ 50% after rounding off from 30% for life as recommended by RMB to the applicant with effect from 03 Nov 2005 i.e. the next date of discharge from service with interest @ 12% p.a. till final payment is made.

(c) Direct respondents to pay Rs. 5,00,000/- as compensation and Rs. 70,000/- as cost of litigation for loss suffered by the applicant due to gross negligence of non-payment of disability pension despite fully eligible.

(d) Any other relief which the Hon’ble Tribunal may deem fit and proper in the fact and circumstances of the case.”

5. The applicant was enrolled in the Indian Air Force on 28.07.1981 and between 12.09.1982 to 02.11.2005, after undergoing his basic and trade training of medical assistant, he was posted to different units of the Indian Air Force up to 2005.

6. In the meanwhile, it is the case of the applicant that while he was posted at IAM, Bangalore, on 10.02.2003, on account of the hectic work condition and other aspects of the work, he felt very uncomfortable and heaviness in his chest and was referred to Command Hospital, AF, Bangalore wherein he was diagnosed with the disability of AC Inferior Wall MI with RVM (Old) @ 30% for lifelong. Based on the same, the applicant was placed in the Low Medical Category

A4G2 (P) and his disability assessed @ 30% for life long and finally, he was discharged from service on 02.11.2005.

7. After the discharge from service, when the applicant claimed for disability pension and the same was not granted to him, he had invoked the jurisdiction of this Tribunal and after notice was issued, the respondents have filed a detailed counter affidavit. In Para 5 and 6 of the counter affidavit, the respondents have stated the facts as under:

“5) That RMB assessed his disability as attributability to service. Being an accepted case, the Air Veteran was sent as set of blank pension paper for completion and submission to this office to process the case for issuance of PPO vide letter No.Air HQ/99798/1/656134/DAV(DP/RMB) dated 11 Jan 2023.

6) That a letter dated 11.01.2023 was sent to the applicant along with a set of blank pensions paper for completion and signature and also requested to complete pensions paper alongwith a copy of pension account passbook and cancelled cheque in the office of DAV but applicant instead of providing the required documents filed the present OA which is not maintainable as same is without cause of action. Copy of letter dated 11.01.2023 is annexed herewith as Annexure – R1.”

8. From the aforesaid, it is clear that finding the disability of the applicant to be attributable to and aggravated by military service, the respondents have indicated to the applicant to submit his pension paper along with other documents so that his claim can be processed and disability element of pension be granted to him. The applicant has

filed a rejoinder and has brought on record documents collectively filed as Annexure A-6 along with a communication dated 27.06.2023 wherein in compliance with the communication made to him on 11.01.2023 in vide Annexure R-1, he has submitted all documents necessary on 27.06.2023. Taking note of all these factors on 01.09.2025 and thereafter, again on 27.10.2025, we directed the respondents to take note of all these factors and ensure issuance of PPO to the applicant for the disability of 30% for life. However, today, when the matter is taken up, we are informed that the applicant has not submitted the papers and, therefore, action is yet to be taken.

9. Taking note of the totality of the facts and circumstances of the case and the medical documents available on record, we find that in the proceedings of the RMB conducted vide Annexure A-4 on 28.10.2005, the ailment of the applicant, i.e., AC Inferior Wall MI with RVMI (Old) Z 09.0 is held to be attributable to military service and the reason for the same is due to stress and strain of the service. That being so, it is a case where the applicant is entitled to the disability element of pension as claimed for in this application and in spite of admission of the same in the counter affidavit and submission of documents by the

applicant vide Annexure A-6 (Colly) on 27.06.2023 as is evident from the rejoinder, respondents have not taken any action in the matter.

10. Keeping in view all these factors, the applicant is entitled for disability element of pension in respect of disability AC Inferior Wall MI with RVMI (Old). Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% for life as recommended by the RMB w.e.f. 03.11.2005 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No.418/2012), decided on 10.12.2014.

11. As far as payment of arrears of disability element of pension is concerned, in Para 4 of the impugned order dated 11.11.2022 while replying to the legal notice of the applicant, the respondents in Para 5 said that the applicant is entitled to disability element of pension @ 30% w.e.f. 03.11.2005 and 50% (30% rounded off to 50%) w.e.f. 01.01.2016 for life as the existing policy and rules.

12. Taking note of the aforesaid, we direct that the disability element of pension rounded off to 50% be granted to the applicant w.e.f. 01.01.2016 and the respondents are thus directed to calculate, sanction and issue the necessary

PPO to the applicant within a period of three months from the date of receipt of copy of this order failing which the applicant will be entitled for interest @ 8% per annum from the date of receipt of copy of the order by the respondents.

13. No order as to costs.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON



[RASIKA CHAUBE]
MEMBER (A)

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