

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

OA 1089/2021

WITH

MA 1026/2021

Ex AC Sheoran DS Applicant
Versus
Union of India and Ors. Respondents

For Applicant : Mr. Manoj Kr. Gupta, Advocate
For Respondents : Mr. Rajeev Kumar, Advocate

CORAM

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

Dated: 20th November, 2025

ORDER

MA 1026/2021

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 13755 days 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 of 13755 days in filing the OA is condoned. The MA is disposed of accordingly.

OA 1089/2021

2. In this OA filed under Section 14 of the Armed Forces Tribunal Act 2007, the applicant Ex AC Sheoran seeks to direct the respondents to grant him minimum invalid pension in the form of service element, as upheld by the Hon'ble Supreme Court in Nanukuttan Nair v. Union of India and Ors. (CA Nos. 4714–4715 of 2012), since his invalidation on medical grounds (LMC) establishes that the disability is attributable to or aggravated by service and entitles him to invalid pension. The applicant has prayed for service element based on length of service or disability element (not less than 20%) or both, as held in Ex Rect Mithlesh Kumar Vs. Union of India and Ors. (CA Nos. 16438–16440 of 2017), Sukhvinder Singh Vs. Union of India and Ors. (2014 (4) SCC 364) and followed in Sep B.S. Kushwah Vs. Union of India and Ors. (OA No. 520/2014), Ex Rifleman Pradeep Singh Vs. Union of India and Ors. (OA No. 184/2017) and Ex Gnr Vasant Mokashi Vs. Union of India and Ors. (OA No. 721/2017) and further to apply the principle of rounding off of

disability as per Government of India, MoD order dated 31.01.2001 upheld by the Hon'ble Supreme Court in Ram Avtar Vs. Union of India and Ors. (Civil Appeal No. 418 of 2012).

3. The brief facts of the case are that the applicant was enrolled in the Indian Air Force on 31.08.1979 and was invalided out of service after rendering more than five years of service, having been found medically unfit for further duty. As per the applicant, during 1981-82, while posted at Air Force Station, Nasik, he was diagnosed with a disease and treated at Military Hospital, Ashwini, where he remained admitted for about a month. During 1982-83, while posted at Air Force Station, Jalahalli, Bengaluru for conversion training (advancement of trade), he developed anxiety neurosis and was placed in a Low Medical Category (LMC) after treatment at Command Hospital. Subsequently, on 07.01.1985, he was invalided out of service in LMC and his case for grant of invalid/disability pension was processed. On 04.05.2009, the applicant preferred an appeal seeking grant of invalid pension on the ground that the invaliding disability was attributable to or aggravated by military service. The appeal was acknowledged by the

Air Force Record Office on 08.06.2009, but no decision was communicated by the competent authorities. Thereafter, on 18.09.2020, the applicant submitted another representation requesting grant of pension and supply of the Invaliding Medical Board (IMB) proceedings. However, vide letter dated 14.10.2020, the Air Headquarters rejected his request for the Medical Board proceedings and even a copy of the Long Roll was not furnished. Hence the present OA.

4. The learned counsel for the applicant contends that the Ministry of Defence, vide its letter dated 16.07.2020, has extended the benefit of invalid pension to Armed Forces personnel who were invalided out of service before completion of ten years of qualifying service. Since the applicant was invalided out after rendering about five years of service on account of disability, the action of the respondents in denying him invalid/disability pension is arbitrary and violative of Articles 14, 16, and 21 of the Constitution of India. It is further submitted that the applicant was enrolled in medical category Shape-I and as held by the Hon'ble Supreme Court in a catena of decisions, any disability manifested after enrolment is presumed to

have arisen due to stress and strain of military service unless the contrary is proved. The learned counsel submits that the Ministry of Defence has already extended similar benefits to pre-1976 retirees and more recently to post-2019 retirees and hence denial of the same benefit to the applicant amounts to discrimination. Reliance is placed on the judgments of the Hon'ble Supreme Court in *Ex Rect. Mithlesh Kumar (supra)*, *Sanchati Satyanarayana and Ors. Vs. Union of India and Ors.* (SLP No. 20868/2009), *Sukhvinder Singh (supra)* and *D.S. Nakara Vs. Union of India and Ors.* (AIR 1983 SC 130). The learned counsel further submits that in *Dharamvir Singh (supra)*, the Hon'ble Supreme Court has laid down the governing principles in paragraph 28 and that the applicant's case squarely falls within the ambit of those principles. Accordingly, it is urged that the applicant is entitled to grant of invalid/disability pension in terms of the aforesaid decisions.

5. Per contra, the respondents have filed a detailed counter affidavit denying the applicant's claim for grant of invalid pension. It is contended that the applicant has approached this Tribunal after an inordinate delay of 36

years, resulting in the weeding out of relevant records in accordance with the applicable record retention rules. It is further submitted that, given the passage of such a long period, the medical condition of the applicant must have undergone considerable change making it impracticable to assess his case on its original medical merits. The respondents state that only minimal information in the form of a single page of the Long Roll (LR) is now available with the Directorate that the applicant was enrolled in the Indian Air Force on 31.08.1979 and discharged on 07.01.1985 under the clause “on being found medically unfit for further service in the IAF” after rendering a total of 5 years and 102 days of regular service. Hence, in the absence of complete service and medical endorsement in the LR which give information about the disease its percentage, it is not feasible to re-examine the case in its true perspective.

6. Further, in reply to Paras 5A to 5R of the OA, learned counsel for the respondents drew attention to Paras 171 and 172 of the Pension Regulations for the IAF, 1961 (Part I), which lay down the conditions for grant of invalid pension, namely:

- (i) *an individual invalidated out of service on or after 01.04.1964 on account of a disability neither attributable to nor aggravated by service;*
- (ii) *an individual invalidated out of service on or after 01.04.1964 on account of a disability assessed at less than 20%, even if attributable to or aggravated by service;*
- (iii) *a low medical category individual discharged from service on or after 01.04.1964 for want of alternative employment compatible with his medical category, provided that for those discharged prior to 18.04.1967, invalid pension shall be payable only from 18.04.1967; and*
- (iv) *a minimum qualifying service of 10 years is required for grant of invalid pension, while those with less than 10 years' qualifying service are entitled only to invalid gratuity.*

The respondents are also unable to furnish the said details since the relevant service and medical records have been weeded out after the expiry of the prescribed retention period, the discharge having occurred more than three decades ago. The only available discharge certificate merely indicates that the applicant was released "on being found medically unfit for further service in the IAF", without specifying the nature or percentage of disability. Also the applicant other than making oral submission is unable to produce any documentary proof regarding his disability. In the absence of any documentary evidence to establish the

nature, cause or degree of the alleged disability, the applicant's claim for disability pension is wholly unsustainable. Therefore, in addition to the inordinate and unexplained delay in preferring the OA, the non-disclosure and failure to substantiate the alleged disability constitutes a ground for dismissal of the same.

7. The respondents' contention that he is ineligible for such benefit in terms of Ex JWO Kewal Krishan Vij Vs. Union of India and Ors. (W.P.(C) No. 6093/2020, decided on 08.09.2020), Ex Flt Lt Sanjiv Diwan Vs. Union of India and Ors. (OA No. 209/2016, decided on 08.10.2020), and Ex MWO Muni Lal Ram Vs. Union of India and Ors. (OA No. 619/2017, AFT, PB, Delhi) and further that the applicant's OA suffers from inordinate and unexplained delay and is therefore liable to be dismissed has merit.

8. We are of the view that the issue pertaining to a minimum qualifying service of 10 years has been amended vide MoD letter dated 16.7.2020 hence the case of the applicant can be examined for grant of invalid pension at this belated stage if all conditions stand fulfilled. In this background we have carefully

considered the pleadings on record, the submissions advanced by the learned counsel for the parties and the materials made available for our perusal. The limited issue before this Tribunal is whether the applicant, who was discharged under the Clause "*on being found medically unfit for further service in the IAF*" as per the LR after rendering 5 years and 102 days of service, can be considered as invalided out of service and granted invalid pension even if there are no medical documents to support his invalidation and there is no endorsement/record of the disability he was suffering from at the time of discharge.

9. We notice that the applicant has not disclosed documentary evidence about the nature of the disability from which he was allegedly suffering at the time of discharge. The respondents have also stated that they are unable to furnish details of the disability the applicant was suffering from at the time of discharge since the relevant records have been weeded out after the expiry of the statutory retention period; the discharge having taken place more than three decades ago. The only available discharge certificate in the LR merely records that the

applicant was discharged “on being found medically unfit for further service in the IAF”, without any mention of the name/nature or percentage of disability. There is no record of any Medical Board that confirms that the discharge is on account of invalidation.

10. In the absence of any material evidence to establish the type, cause or extent of disability, we are left in complete uncertainty. In such circumstances, the applicant’s claim for invalid pension, at this belated stage cannot be entertained. Accordingly, apart from the inordinate and unexplained delay in filing the OA, the non-disclosure and non-establishment of the alleged disability itself constitutes an additional and independent ground for dismissal of the claim. It is observed that the applicant was discharged from service more than thirty-six years prior to the filing of the present OA. His first representation was made only in 2009, nearly twenty-four years after invalidation and the present OA was filed in 2021, after a further gap of eleven years. The applicant has not furnished any satisfactory explanation for such extraordinary delay. The long and unexplained inaction on his part clearly indicates the applicant’s

consent to the decision of the competent authority at the time of his discharge and amounts to waiver of any right, if at all, he had.

11. It is a well-settled principle of law that stale and time-barred claims cannot be reopened after decades, particularly when the relevant service and medical records are no longer available due to expiry of the prescribed record retention period. The respondents have repeatedly stated that only a single page of the Long Roll is traceable and that all other documents have been weeded out in accordance with rules. The applicant himself is unable to produce any document to substantiate his claim. In the absence of contemporaneous service and medical records, any attempt to re-assess the consequential impact of his discharge and grant of invalid pension at this stage would be speculative and devoid of any evidentiary foundation.

12. The Hon'ble Supreme Court, in a catena of decisions, has consistently held that belated representations made after long years of acquiescence cannot revive stale claims and that courts or tribunals should be slow to reopen matters settled long ago. The

present case, where the applicant has approached the Tribunal after more than three decades of inaction when no documentation is available with either side, squarely falls within the ambit of such time-barred and stale claims.

13. In view of the foregoing discussion, we find that the OA is devoid of merit and liable to be dismissed. Accordingly, the OA as well as the MA stand dismissed. There shall be no order as to costs.

14. Pending miscellaneous applications, if any, shall stand disposed of accordingly.

Pronounced in open Court on this 20th day of November, 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[RASIKA CHAUBE]
MEMBER (A)

/vks/