

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 1252/2017

Ex Hony Nb Sub Beer Singh Panwar **Applicant**
VERSUS
Union of India and Ors. **Respondents**

For Applicant :Mr. S M Dalal, Advocate
For Respondents :Mr. Karan Singh Bhati Sr CGSC
for R 1 & R 2 and Ms. Anjali Vohra For R-3,

CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE LT. GEN. C.P. MOHANTY, MEMBER (A)

ORDER

The applicant, who was discharged from service on 29.02.2016 after 24 years of service, aggrieved by non grant of financial benefit of Army Group Insurance Scheme (AGIS), has invoked the provision of Section 14 of the Armed Forces Tribunal Act seeking following relief, (i) Strike down para 59 (e) of Army Order 23/2002 AGI being ultra vires Articles 14 and 16 of the Constitution of India (ii) Direct the respondents to grant Disability benefits @ 80% from AGI Fund.

2. The facts as stated show that applicant having entered the military service on 15.02.1992 served therein for 24 years and was discharged from service on 29.02.2016 after completion of

his term of engagement. While being posted at Bandipura Area of Jammu & Kashmir during OP 'RAKSHAK' due to grenade blast he sustained (i) Multiple Splinter injuries on face with Open Globe injuries in both eyes and (ii) Post Traumatic Laryngeal Stenosis. He was downgraded to Low Medical Category and declared as Battle Casualty. During the course of military duty he received another injury 'Fracture Distal Radius (left)' which was held attributable to service. The Release Medical Board held on 18.08.2015 assessed his disability as 40%, 60% and 20% respectively for life and composite disability was assessed as 80% for life. The applicant was granted War Injury Pension @ 80% vide PPO No. S/Corr/13533/2016. Being a member of Army Group Insurance Scheme (AGIS), the applicant filed an application for grant of disability pension before Respondent No. 3, Secretary, Army Group Insurance Scheme (AGIF), the same was however not decided, hence the present OA.

3. Submissions have been addressed on behalf of the applicant and on behalf of the respondent No. 3 (AGIF), by the learned counsel. On behalf of respondents No. 1 and 2, it is submitted that no counter affidavit has been filed in as much

as there is no relief whatsoever claimed against the respondents no. 1 & 2.

4. On behalf of the applicant, it is submitted that the applicant is a beneficiary of Army Group Insurance Scheme (AGIS) and made payments of premium without default. As per the scheme there is disability cover for Army Personnel depending on percentage of disability if service period is cut short and individual is invalided out of service prematurely due to injury or disease. It is stated that the applicant was released in Low Medical Category (LMC) due to the three injuries sustained by him during his military service but as the applicant completed his service, he was denied the benefits of disability cover under the Army Group Insurance Scheme which is highly discriminatory, arbitrary and illegal.

5. On behalf of respondents, it is submitted that applicant was discharged under Rule 13(3)III(i) of Army Rule, 1954 on completing his service tenure. He was granted War Injury Pension on account of the disabilities/injuries suffered by him during OP RAKSHAK. It is contended that the disability benefit paid by Army Group Insurance Scheme is entirely different from disability pension paid by the Union of India. Referring to the

relevant provision of Army Group Insurance Scheme, Rule 1982, and referring to Rule 9(C), it is stated that aim and object of the Army Group Insurance Scheme (AGIS) is to compensate those personnel whose services were cut short and who were invalided out of service on or after 01.01.1980. It is submitted disability pension is paid by AGIF as one time lump sum benefit to a member, subject to meeting other eligibility condition as are notified from time to time to financially compensate him for being released/ invalided out from service before completing the contractual period of service. Referring to Para 59 of the scheme, it is further emphasised that personnel whose disability was detected and were awarded disability pension/ discharge/release on completion of term of engagement or service/age of superannuation are not entitled to AGIF disability benefits.

6. It is further, pointed out by the learned counsel for the Respondent No. 3, the Army Group Insurance Fund (AGIF) is a registered, independent and autonomous society under the Society Registration Act, 1860 governed by its own rules, by laws and policies framed and approved by Board of Governors. It is a contributory self run scheme on a no profit

no loss basis without any financial assistance from the Govt. or any other Govt. Agency, and that it met 100% of the cost including maintenance, pay and allowances of the staff from its own fund. It is essentially a self sustaining Group disability benefit scheme to indemnify injury/compensate those members who are invalided out of service or whose services were cut short on medical grounds and the fund is managed and administered by the decision taken and notified by its Board of Governors (BoG) from time to time.

7. The counsel has relied on the following judgments/orders in support of his submission that no disability benefit was payable on discharge/release/superannuation on completion of term of engagement:

- (i) OA No 1572 of 2014 Ex Sep Joginder Lal Vs Uol and Others*
- (ii) OP No 12943/1996 Ex Nk Sundaram A Vs Uol and Others*
- (iii) CWP No 4377/2000 Ex Hav Birda Ram Vs UOI and Others.*
- (iv) TA No 116/2011 arising out of CWP No 16785/2003 Ex Lt Col (TS) Sartaj Singh Sohi Vs Uol and Others.*
- (v) OA No. 47 of 2016 & MA No. 65 of 2016 Nb Sub Mani Kumar Martand (Retd.) Vs Uol and Others.*

8. Considered the respective submission of the learned counsel for the parties and perused the record.

9. It is undisputed that applicant was discharged from service after 24 years, on completion of the term of engagement under the provision of Rule 13(3)III(i) of the Army Rules, 1954 on 29.02.2016 in permanent Low Medical Category with composite disability at 80% and there was no 'cut short' in service.

10. Para IV of AGIF Scheme provides for disability benefits as follows:-

PART IV-DISABILITY BENEFITS

58. AGIF Disability Scheme was introduced on 01 Jan 80 to compensate those personnel whose service was cut short and were invalided out of service in Medical category EEE with 40 per cent and above disability. The progressive improvement of percentage of disability criteria was introduced for disability benefit as under:

Disability Percentage	Medical Category	Eligible date for those Discharged/ Invalided out before completing Contractual Service on or after
(a) 40% and above	BEE, CEE or EEE	27 Sep 1987
(b) 30% and above	do	01 Oct 1990
(c) 20% and above	do	01 May 1992

59. The objective of AGIF Disability, Scheme is to provide financial benefit to individual whose service is cut short

due to invalidment or release on medical grounds before completion of the terms of engagement or service applicable to that rank. The disability benefit is paid as a lumpsum benefit based on initial assessment by Invaliding Medical Board or Release Medical Board before completing the contractual period of service for the rank and meeting the eligibility conditions. The disability benefit admissible is 50 per cent or as specified of the prevalent insurance cover for 100 per cent disability on the date of invalidment and proportionately reduced for lower percentage of disability upto 20 per cent or as, specified. However, the following categories of personnel are NOT eligible for disability cover:-

(a) Personnel whose disability is detected and are awarded disability pension element at the time of proceeding on normal pension/discharge/release on completion of terms of engagement or service limits for the rank/age of superannuation.

(b) P & T deputationists invalidated out of military service but continue in service in their parent department on reversion from Army

(c) Personnel proceeding on pension/discharge release at their own request or after expressing unwillingness to serve in a sheltered appointment being in permanent EEE, CEE or BEE medical category or due to any other reason.

(d) Personnel granted extension, who were LMC (Temporary) or permanent or were in hospital on the crucial date of commencement of extension and subsequently released in LMC permanent or invalidated out in category EEE during the currency of the extended tenure

(e) The career of an individual should be cut short which implies that any one who serves upto the laid down age of retirement or service limit for the rank even though with disability (20% and above) is not eligible.

(f) Personnel invalidated out of service due to disease of pre-enrolment origin.

(g) Discharged on disciplinary grounds/ undesirable.

(h) Personnel discharged in Low Medical Category due to Alcohol/Drug Dependence Syndrome.

60. The quantum of disability benefit is worked out on the basis of 50 per cent or as specified of the payable insurance

amount on the date of invalidment for 100 per cent disability. The payable amount will depend on the prevalent insurance cover and amount specified at the time of Invalidment. For lower percentage of disability, the amount payable is proportionately reduced for disability lower than 20 per cent, There will be No Disability Benefit.

61. The disability amount will depend on the disability percentage decided by the Invaliding Medical Board/Release Medical Board proceedings. Subsequent upgradation or degradation of disability percentage will not have any bearing in allowing additional disability payment or disallowing disability payment already made.

11. The language of the aforesaid clauses are plain and unambiguous, and make it clear that this special scheme is made to compensate those personnel whose services are cut short and no disability benefit under AGIF scheme is admissible if an individual is retained in service till completion of his term of engagement.

12. Applicant's contention that there cannot be any arbitrary distinction for grant of AGIF benefits, between the personnel whose service were cut short due to disability and those who were discharge in Low Medical Cateogry after completion of tenure of service, as both the category of ex-servicemen/personnel are member of AGIF is not tenable. Since the objective behind the AGIF scheme is totally different, the

applicant couldn't draw any parallel. Moreover, there is nothing discriminatory or violative in the said scheme, as this scheme is not meant nor applicable to those who are discharged on completion of their term of engagement. There is no statutory control over the formulation of scheme and in execution and in view of their by laws, they are entitled to modify their own scheme. Thus the provision of the AGIF scheme cannot be said to be discriminatory as there is no unequal treatment amongst the equals

13. In case of **Rajeev Nambiar & Ors. v. UOI and Ors. WP(C) 6573/2022** and CM Appeal 19992/2022, the Hon'ble High Court of Delhi, though in a different context observed that the doctrine of equality, enshrined in Articles 14 and 16 of the Constitution of India, is intended to advance justice by avoiding discrimination. It stands attracted when equals are treated as unequals or where unequals are treated as equals. The guarantee of equality does not imply that the same rules should be made applicable in spite of differences in their circumstances and conditions. Although Articles 14 and 16 of the Constitution forbid hostile discrimination, they do not prohibit reasonable classification. Thus, equality means

equality as between members of the same class of employees and not equality between members of separate independent classes. A person who is discharged on the ground of unsuitability cannot seek any parity with a person who continues to serve government, albeit, in a different organization.

14. The issue, "whether there is any illegality or impropriety in the denial of benefit under Army Group Insurance Fund scheme to a pensioner"? has been considered by the AFT Regional Bench, Kochi in the case of **Ex Sub Ajumohan S. Sigs** (JC No. 378304H) **OA No. 16 of 2020**, and the Bench held at Para 7 & 8

7. *As rightly pointed out by the third respondent, it is pertinent to note that AGIF is an independent society governed by its own Rules and Bye-laws and the Fund is managed and administered as per the decisions taken by its Board of Governors from time to time and such decisions are notified from time to time. It shows that there is no statutory control over the formulation of the scheme. In exercise of that power, they have the right to modify their own scheme and they modified the scheme and limited the application of the same to non-pensioners only. As the benefits under the Scheme must be in commensurate with the funds available for granting benefit and it is for them to determine the beneficiaries. Therefore, we do not find any reason to interfere with their right to formulate and determine the beneficiaries under the Scheme.*

8. *In the instant case, Annexure A-4 shows that the Disability Benefit Scheme of the AGIF has been reviewed and certain directions were given. As per Para 3(a) of Annexure R-3/13, the Scheme is made applicable to those who invalided out of service by IMB and who are not in receipt of any pension. so also, the title of the Scheme has been changed from AGIF Disability Benefit Scheme to AGIF Medical Benefit Scheme for Non Pensioners. Thus, the modified caption itself shows that the non-pensioners alone are covered under the Scheme. Hence, the applicant being a pensioner is not entitled to get the benefit under the modified scheme, the AGIF Medical Benefit Scheme for Non Pensioners, we do not find any kind of irregularity or impropriety in limiting the extent of benefits to non pensioner only.*

15. In the present case the applicant did not meet the requirement of Para 58 of the Army Group Insurance Scheme provision since he was not invalided out or cut-short of service, hence not entitled for grant of disability pension under Army Group Insurance Scheme.

16. In view of the aforesaid, we find that there is no illegality, impropriety or arbitrariness in the denial of AGIF benefit to the applicant.

17. This OA 1252/2017 is dismissed accordingly being devoid of merit.

18. No order as to cost.

Pronounced in the open Court on this 1st September, 2025.

**[JUSTICE NANDITA DUBEY
MEMBER (J)]**

**[LT GEN C.P. MOHANTY
MEMBER (A)]**

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