

13

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

OA 1305/2019

Ex MACP Hav Nitin Sakha Applicant
Versus
Union of India and others Respondents

For Applicant : Mr. Praveen Kumar, Advocate
For Respondents : Mr. Kumar Gaurav, Advocate

Dated: 12th August, 2025

CORAM:

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

ORDER

Aggrieved by the impugned orders dated 30th October, 2017, 13th June, 2018 and 5th July, 2019 denying him disability pension, the applicant has filed the instant OA seeking the following reliefs:

- (a) *Quash and set aside the letter dated 30 Oct 2017 and 13 Jun 2018 and 5 Jul 2019.*
- (b) *Direct the respondents to grant disability pension @ 50% after rounding off the same from @ 20% as recommended by RMB for life to the applicant with effect from 01 Jul 2017 i.e. the date of discharge from service with interest @ 12% p.a. till final payment is made according to policy letter issued by Govt of India vide dated 31.01.2001 and judgment dated 10.12.2014 passed by Hon'ble Supreme Court of India in Bunch of matter titled as Union of India & Others Vs. Ram Avtar in Civil Appeal 418/2012.*
- (c) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

2. The brief facts leading to the filing of this OA are that the applicant was enrolled in the Indian Army on 1st July, 2000. On completion of his training, he was deployed on Trade Duties. The applicant, on completion of his term of engagement, was discharged from service on 30th June, 2017 after rendering about 17 years of service in low medical category on account of disability **“OPEN ANGLE GLAUCOMA BOTH EYE LEFT EYE (OPTD)”**. While serving at Bhuj, the applicant was downgraded to Medical Category E2 (T-24) for a diagnosis **“Juvenile Open Angle Glaucoma with Vascular Occlusion Both Eye”** and further downgraded to S1H1A1P1E2(P). The Release Medical Board (RMB) held on 10th June, 2017 compositely assessed his disability @ 20% NIL for life. However, the RMB opined that the disease of the applicant was neither attributable to nor aggravated by military service (NANA). As the percentage of disability was assessed NIL for life and held to be NANA, the applicant's claim for grant of disability pension was rejected by the respondents vide order dated 30th October, 2017. Both the First and the Second Appeal filed by the applicant were also rejected vide orders dated 13th June, 2018 and 5th July, 2019 respectively.

3. Learned Counsel for the applicant submitted that the applicant was medically fit when he was enrolled into military service and no note to the contrary was recorded in his service records. He further submitted that any disability not recorded at the time of enrolment should be presumed to have been caused subsequently during military service due to its stress and strain. Learned counsel for the applicant also submitted that the applicant's staying alone, away from family also added to the stress and strain of service conditions. It is further submitted that the disability of the applicant has occurred while he was in active service and, therefore, it is attributable to and aggravated by military service and the action of the respondents in denying disability pension to the applicant is illegal.

4. In support of his contentions learned counsel for the applicant relied upon the decision of the Hon'ble Supreme Court in the case of *Dharamvir Singh Vs. Union of India and others* [(2013) 7 SCC 316] and submitted that for the purpose of determining attributability and/or aggravation of the diseases to military service, the material that has to be taken into consideration is whether the disability was detected during the initial medical tests and if not, then it is to be presumed that the

disability arose during service period and the disability is to be considered as aggravated by service and the individual is entitled to grant of disability pension. It is, therefore, contended that the applicant is entitled to grant of disability pension @ 20% for life and the same is to be rounded off to 50% for life in the light of the judgment of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ram Avtar (CA 418/2012) decided on 19th February, 2014.

5. On the other hand, learned counsel for the respondents has filed the counter affidavit and submitted that though the RMB had assessed the disability of the applicant @ 20% NIL for life, it opined that the disability is NANA and onset of the disease is not related to service conditions, as such his claim for disability pension has rightly been rejected by the respondents. It is further submitted that the applicant was given a fair chance to put forth his case by way of First and Second Appeal but both the Appellate Authorities, on consideration of relevant facts and record, held the disability as NANA and rejected the applicant's claim for disability pension. He, therefore, submitted that the instant OA does not have any merit and the same is to be dismissed.

6. We have given a patient hearing to both the parties and have also perused the available records. For the decision of this OA the question that needs to be answered is, whether the disability of the applicant is attributable to or aggravated by military service?

7. The record reveals that the applicant suffered the disability in November 2007 while posted at Bhuj. The opinion of the Classified Specialist, Cornea and Refractive Surgery, Department of Ophthalmology, which is relevant to answer the question framed by us, as contained in Part V of the RMB proceedings, reads as under :-

PART V
OPINION OF THE MEDICAL BOARD
(Not to be communicated to the individual)

(Note: A disability not connected with service would be neither Attributable nor Aggravated by service)

(This is in accordance with instruction contained in 'Guide to Medical Officers (Mil Pension -2002)

<i>1. Causal Relationship of the Disability with Service Conditions or otherwise</i>				
<i>Disability</i>	<i>Attributable to Service Y/N</i>	<i>Aggravated by Service Y/N</i>	<i>Not connected with service (Y/N)</i>	<i>Reason/Cause/ Specific condition and period in service</i>
<i>(i) OPEN ANGLE GLAUCOMA BOTH EYES (LT EYE OPTD)</i>	<i>NO</i>	<i>NO</i>	<i>YES</i>	<i>ID is constitutional disease not related to stress & strain or any other service related factors. No history of infection to the eye or taking drugs like steroid. No history of Hypertension or Diabetes. Hence ID conceded as neither attributable nor</i>

				aggravated by mil service as per para 35, Chap VI of GMO's 2008 amended.
--	--	--	--	--

8. As per available medical literature Glaucoma is genetically pre-disposed disease and is often hereditary. There is no evidence otherwise to suggest that stress and strain can cause it.

9. In view of the aforesaid, we do not find any good or valid ground to interfere with the opinion of the RMB that the disability of the applicant, i.e., **“OPEN ANGLE GLAUCOMA BOTH EYE LEFT EYE (OPTD)”** is not connected with service, hence NANA.

10. We may also note that the Hon'ble Supreme Court in the case of Ex Cfn Narsingh Yadav Vs Union of India and Ors (Civil Appeal No 7672 of 2019) decided on 3rd October, 2019 held that any subsequent manifestation does not entitle a person for disability pension unless there are very valid reasons and strong medical evidence to dispute the opinion of Medical Board. Relevant part of the judgment reads below:-

“21. Though, the opinion of the Medical Board is subject to judicial review but the Courts are not possessed of expertise to dispute such report unless there is strong medical evidence on record to dispute the opinion of the Medical Board which may warrant the constitution of the Review Medical Board.”

11. The question is thus answered in the negative.

12. In view of the above, the OA is devoid of merit and deserves to be dismissed and the same is accordingly dismissed.

13. Pending application(s), if any, also stands disposed of.

Pronounced in the open Court on 12th August, 2025.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

/vks/