

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

77.

OA 1412/2023 WITH MA 1227/2025

Sgt Kuldeep Lamba (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Ravi Kumar, Advocate
For Respondents	:	Mr. Rajeev Kumar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
03.04.2025

MA 1227/2025

Counter affidavit has been filed. There being some delay in filing the same, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. The MA stands disposed of.

OA 1412/2023

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

“(a) To direct the respondents to conduct the RE-SURVEY MEDICAL BOARD to assess the disability of the applicant in view of the provisions of GMO 2008, as his disability, viz,

Internal Derangement of Knee (IDK) is attributable and aggravated by service and if the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law for grant of disability pension and in that case the arrears shall also be paid accordingly.

(b) To direct the respondents to consider the fact that the onset of disability was during the service in the year 2009 while participating in Unit organized sports activities and thereafter in 2012 while undergoing physical training exercise in the Unit and the applicant's condition is further worsens/aggravated since 2017 because his medical category was upgraded wrongly thereby he was forced to perform all the physical activities, and his disability is static and permanent.

(c) To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."

4. The applicant was enrolled in the Indian Air Force on 19.08.1999 and was discharged on 30.04.2022. During the service, in the year 2011, the applicant while participating in Unit organized sports activities fell down and sustained an injury in his left knee. On 23.03.2012, the applicant again sustained injury in the same knee (left) while undergoing physical training exercise in the Unit and admitted in Military Hospital, Ahmadabad. Thereafter, on 24.07.2012, the applicant was transferred to INHS Ashwani (Hospital), Mumbai for treatment by specialist

medical officers and was diagnosed with the disease, namely, 'IDK LEFT KNEE'. The applicant was then downgraded to Low Medical Category (A4G4). Thereafter, on 20.05.2016, during the Re-categorization Medical Board, the special medical officer advised the applicant to continue in LMC A4G4(P). However, on 09.06.2017, on the basis of a wrong reporting of an X-ray investigation, the medical category of the applicant was upgraded directly to A4G1 from A4G4(P) and he remained in the same medical category till his retirement, i.e., 30.04.2022. According to the applicant, in the year 2022, the applicant suffered severe pain, approached to the medical authorities for his treatment and was referred to the Air Force Hospital for treatment. Thereafter, the Air Force Hospital advised him for MRI which was conducted on 28.03.2022. After investigation and examination, the applicant along with a medical case sheet dated 25.03.2022, was referred to Base Hospital, Delhi for further treatment by Ortho Specialist who considered the severity of injury, prescribed him medicines and gave him excuse from PT, Parade Games, long standing duties, etc., however, his medical category was not downgraded and he was discharged from service on 30.04.2022. Faced with this situation, the applicant then

submitted a representation dated 25.08.2022 for conduct of Re-Survey Medical Board. However, the outcome of the same is still awaited. Aggrieved by the same, the applicant has approached this Tribunal.

5. The learned counsel for the applicant submitted that the deteriorating health condition of the applicant and facing difficulty in his day to day job and unable to serve in the Army with full efficiency due to the disability IDK LEFT KNEE, the Release Medical Board upgraded his medical category to A4G1 and ignored these facts at the time of his discharge from service. The learned counsel referred to Para 49, Chapter VI of GMO, 2008 which states that an X-ray is not only the investigation to diagnose an injured knee, CT scan is also necessary to reach the final diagnosis. Further, learned counsel referred to Rule 8(a) of Entitlement Rules, 2008, to state that even if the disease was not there at the time of discharge but arose within seven years of discharge, in that case also, the disability is to be recognized as attributable to service and a personnel can ask for Re-survey/Re-assessment Medical Board. In support of his contentions, the learned counsel placed reliance on the orders of this Tribunal.

6. *Per contra*, the learned counsel for the respondents justified the action of the respondents and submitted that the applicant was under treatment for 'IDK LEFT KNEE' and was placed in different medical categories from time to time and finally, the medical authority, after due examination, found the applicant fit to be released in medical category SHAPE-1 (A4G1). The learned counsel further submitted that as per Rule 153 of the Pension Regulations for Indian Air Force, 1961 (Part-1), the primary conditions for the grant of disability pension are "Unless otherwise specifically provided, disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by Air Force service and is assessed at 20% or over." Therefore, in the present case, the applicant was discharged from service in the medical category of SHAPE-1 and due to policy constraints his Review Medical Board has not been carried out.

7. We have heard the learned counsel for the parties at length and gone through the records produced before us.

8. The applicant has made a prayer for conduct of the RSMB for re-assessment of the disability, i.e., IDK LEFT KNEE, which he claims to be suffering from. Along with the present

OA, the applicant has annexed certain medical documents as Annexures which show that the applicant was under regular treatment for IDK LEFT KNEE.

9. The applicant was discharged from service on 30.04.2022 under the clause "At his own request" after rendering a total of 22 years, 08 months and 11 days of regular service in medical category A4G1 after undergoing Release Medical Examination (RME). He submitted his representation requesting for conduct of the RSMB on 25.08.2022 and, thus, the applicant is within the limitation period of seven years within which the Post Discharge Medical Board (PDMB) can be conducted in view of Para 8 (a) of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008, which reads as under:

"8. Post discharge claims :

(a) Cases in which a disease was not present at the time of the member's retirement/discharge from service but arose within 7 years thereafter, may be recognized as attributable to service if it can be established by the competent medical authority that the disability is a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge."

Therefore, we are of the considered view that the applicant is entitled to be examined by the medical board through the

conduct of the PDMB and not RSMB to assess his disability of
IDK LEFT KNEE.

10. In view of the above, the OA 1412/2023 is allowed and we direct the respondents to conduct the PDMB of the applicant within a period of two months from the date of the receipt of a copy of this order so as to re-assess the disability and the percentage of the disability, i.e., IDK LEFT KNEE and the decision of the PDMB be communicated to the applicant accordingly.

11. Further, having perused the medical documents placed on record by the applicant, there is sufficient reason to hold that the applicant suffered from the ailment while in service and, therefore, we direct that the PDMB shall be held as per GMO 2008.

12. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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