

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

OA 1837/2023

W I T H

MA 2655/2023

Lt Col Archana Shukla (Retd.)		Applicant
Versus		
Union of India & Ors.		Respondents

For Applicant	:	Mr. Baljeet Singh, Advocate
For Respondents	:	Mr. Neeraj, Sr. CGSC

Dated: 22 nd September, 2025

CORAM

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

O R D E R

MA 2655/2023

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

2. Aggrieved of the decision of the respondents denying grant of Disability Pension, the applicant has filed this OA seeking the following reliefs.

“(a) To direct the respondents to grant disability element of pension @54% with effect from the date of retirement as her disabilities have been held as attributable to / aggravated by service.

(b) To direct the respondents to grant the benefit of broad banding @75% (54% to be rounded of @75%).

(c) To direct the respondents to pay the due arrears of disability element of pension with interest @12% p.a. with effect from the date of retirement till actual payment.

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

3. The applicant was commissioned in the Indian Army in the year 1999 and after completing 22 years superannuated from service in 2021. The Release Medical Board held at the time of retirement found the applicant in Low Medical Category suffering from four disabilities (a) **Bronchial Asthama** assessed @20%, (b) **Degenerative Osteochondral Tear & Lesion (Lt) Knee (Optd)** @20% (c) **B/L Plantar Fascitis (Optd)** assessed @10% and (d) **Medial and Lateral Meniscus tear with Degenerative**

Changes (Rt) Knee (Optd) @20% with composite assessment @54%. IDs (a) and (c) were held aggravated and IDs (b) and (d) attributable to military service. The claim put forth by the applicant for grant of disability pension was disapproved by the respondents stating that it did not meet the eligibility criteria or conditions as stipulated under the existing Rules and/or provision in this respect. Aggrieved of the same, the applicant has come before this Tribunal. The onset of the disabilities (b) and (d) has been recorded in the year 2010, while posted at Jodhpur, disability (c) in 2016 at Shillong and ID (a) in 2021. The first appeal filed against rejection of her claim, as averred, in the OA was not disposed of even on the date of filing of the OA.

4. The contention of learned counsel for the applicant is that at the time of commissioning in the Army, the applicant, after thorough medical examination, was found medically fit and there is no note or record to the contrary. It is further contended that the applicant during her service of 22 years had served at different locations under unlike geographical conditions and

dietary restrictions with stress and strain of military service. It is further contended that although the RMB has held the disabilities of the applicant either attributable to or aggravated by military service yet she has been denied disability element of disability pension. In support of her claim the applicant has placed reliance on the following case law:

(i) *Sukhvinder Singh Vs. UOI and Ors*
[2014 STPL (Web) 468 SC]

The Hon'ble Supreme Court in this case held that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently

(ii) *Ex Naik Umed Singh Vs. UOI and Ors.*
[Punjab and Haryana High Court]
C.W.P. 7277/2023/ decided on 14.05.2014

The High Court of Punjab and Haryana held that Medical Board has to record a reason that the disease could not have been detected at the time recruitment and in the absence of any such finding, the disease would be deemed to have arisen in service.

(iii) *Dharamvir Singh Vs. UOI and Ors*
[2013 (7) SCC 316]

Vide this judgment the Hon'ble Supreme Court held that any disability which is held attributable to or aggravated by military service and is assessed @ 20% or more, the applicant is entitled to disability

element of pension as determined under the Entitlement Rules for Casualty Pensionary Awards, 1982.

(iv) D S Nakara Vs. UOI and Ors
[AIR 1983 SC 130]

Where the Hon'ble Supreme Court held that right to pension is a fundamental right.

5. The applicant hence prays that in view of the submissions made and judgments relied upon by her, she is entitled to grant of disability element of disability pension compositely assessed @ 54% to be rounded off to 75% for life in terms of the judgment of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ram Avtar (Civil Appeal No.418/2012) decided on 10th December, 2012.

6. In spite of an opportunity having been granted, the respondents did not file the counter affidavit. However, as per the directions, they have filed the Medical Board proceedings and made oral submissions denying the grant of disability pension to the applicant.

7. We have heard learned counsel for the parties and have also perused the documents available on record including the Medical Board Proceedings. Opinion of the Medical Board, as

contained in Part VII of the Medical Board Proceedings, reads as under:-

*PART VII
OPINION OF THE MEDICAL BOARD*

<i>Sl.No.</i>	<i>Disability</i>	<i>Attributable to service</i> <i>Y/N</i>	<i>Aggravated by service</i> <i>Y/N</i>	<i>Detailed Justification</i>
(a)	BRONCHIAL ASTHMA (J-45.909)	No	Yes	Disability originated in year 2009 at Jodhpur. Aggravation conceded due to physical stress, exposure to dust/smoke/organic materials and variable climatic condition in military service as per Para 05, Ch-VI of GMO-2008.
(b)	DEGENERATIVE OSTEOCHONDRAL TEAR & LESION (LT) KNEE (OPTD) (S-82.01 & S-82.012)	Yes	No	Disability is attributable to military service as per injury report (IAFY-2006) dt 13 Aug 2011 (Copy att).
(c)	B/L PLANTAR FASCITIS (OPTD) (M-72.2)	No	Yes	The officer developed disability in 2016. Aggravation conceded vide Para 56, Ch-VI of GMO-2008 due to service related strenuous activities like

				PT, parade and games.
(d)	MEDIAL AND LATERAL MENISCUS TEAR WITH DEGENERATIVE CHANGES (RT) KNEE (OPTD) (M-16.0, M-23.23 & M-23.24)	Yes	No	Disability is attributable to military service as per injury report (IAFY-2006) dt 13 Aug 2011 (Copy att).

8. It is evident from the opinion of the Medical Board reproduced hereinabove, that out of four disabilities two have been held as attributable to and two aggravated by Military Service thus meeting the fundamental requirement/criteria for grant of disability pension as stipulated under Regulation 153 of the Pension Regulations for the Army.

9. After perusing the expert opinion of the Medical Board and the case law cited by learned counsel for the applicant, we have no doubt in our mind that the applicant is entitled to disability element of disability pension. In terms of the decision of Hon'ble Supreme Court in Ram Avtar (supra), she is also entitled to the benefit of rounding off.

10. We may, however note that even though the disability (c) **B/L Plantar Fascitis (Optd)** has been held to be aggravated by

military service, but is has been assessed @ 10%, i.e., less than the minimum percentage to claim disability pension.

11. We may further note that the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Wing Commander S.P. Rathore [Civil Appeal No.10870/2018] decided on 11th December, 2019 has held that the disability element is not admissible if the disability is less than 20% and in such a circumstance the question of rounding-off would also not apply. Relevant paras of the said judgment read as under:

"1. The short question involved in this appeal filed by the Union of India is whether disability pension is at all payable in case of an Air Force Officer who superannuated from service in the natural course and whose disability is less than 20%.

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8. This Court in Ram Avtar (supra), while approving the judgment of the Armed Forces Tribunal only held that the principle of rounding off as envisaged in Para 7.2 referred to herein above would be applicable even to those who superannuated under Para 8.2. The Court did not deal with the issue of entitlement to disability pension under the Regulations of Para 8.2.

9. As pointed out above, both Regulation 37(a) and Para 8.2 clearly provide that the disability element is not admissible if the disability is less than 20%. In that view of thematter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off."

In view of the above the applicant is not entitled to any benefit in respect of her disability (c) B/L Plantar Fascitis (Optd).

12. Since we have disallowed the claim of the applicant with respect to disability (c) **B/L Plantar Fascitis (Optd)**, the composite assessment, which earlier was made @54% for all the four disabilities, has to be reassessed. As to how to arrive at composite assessment when there are more than two disabilities, has been spelled out in Para 17 A, Chapter VII of GMO 2002, which reads thus:

“17 A Composite Assessment

(1) Where there are two or more disabilities due to service, compensation will be based on the composite assessment of the degree of disablement. Generally speaking, when separate disabilities have entirely different functional effects, the composite assessment will be arithmetical sum of their separate assessments. But where the functional effects of the disabilities overlap, the composite assessment will be reduced in proportion to the degree of overlapping.

There is a tendency for some Medical Boards to reduce the composite assessment in the former group of cases. This is not correct.”

13. Applying the above parameters to the case at hand, the composite assessment of the disabilities (a) **Bronchial Asthama** (b) **Degenerative Osteochondral Tear & Lesion (Lt) Knee (Optd)** (d) **Medial and Lateral Meniscus tear with Degenerative Changes (Rt) Knee (Optd)**, for which the applicant is entitled to

grant of disability element of disability pension, comes as follows:

(a) Bronchial Asthama @20%	20%
(b) Degenerative Osteochondral Tear & Lesion (Lt) Knee (Optd) @20%	
100-20=80X20	16%
(d) Medial and Lateral Meniscus tear with Degenerative Changes (Rt) Knee (Optd) @20%	
80-20= 60X20	12%
Total Composite Assessment	48%

14. In view of the above the OA is partly allowed and the applicant is entitled to disability element of disability pension for three disabilities (a) Bronchial Asthama (b) Degenerative Osteochondral Tear & Lesion (Lt) Knee (Optd) (d) Medial and Lateral Meniscus tear with Degenerative Changes (Rt) Knee (Optd) compositely assessed @ 48% for life which in view of the decision of the Hon'ble Supreme Court in the case of *Ram Avatar* (Supra) is to be further rounded off to 50% for life. Ordered accordingly.

15. The respondents are directed to calculate, sanction and issue necessary PPO to the applicant within three months from the date of receipt of a copy of this order. Default shall invite interest on the arrears @ 6% per annum till the date of payment. However, keeping in view the law laid down in the case of *Tarsem Singh* (supra) the arrears will be restricted to three years prior to the date of filing of this OA or the applicant's date of retirement/discharge whichever is lesser.

Pronounced in open Court on this ^{ed} 22 day of September, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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