

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

90.

MA 4224/2025 in OA 2104/2024

HMT Ashok Kumar (Retd)		Applicant
Versus		
Union of India & Ors.		Respondents

For Applicant	:	Mr. S K Pathak, Advocate
For Respondents	:	Ms. Nehal Jain, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT. GEN. SHASHANK SHEKHAR MISHRA, MEMBER (A)

ORDER
23.09.2025

MA No. 4224/2025

This application has been filed for early hearing of OA No. 2104/2024. The records of OA No. 2104/2024 have been perused. Considering the very short question involved in the matter the MA is allowed and the OA is taken up for hearing today itself.

OA 2104/2024

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

- (a) Direct the respondents to conduct Review Medical Board for the assessment of the disability "Lumbar Spondylosis" as further aggravated in respect of the applicant for grant of disability benefits as per policy; and

- (b) To award any other/further relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.

3. The applicant was retired on premature separation on medical grounds on 30.09.2023 as he was suffering from a CAD-ECTATIC CORONARIES. He was subjected to a Release Medical Board and it is the case of the applicant that when he was examined by the Military Hospital, Mhow he was also diagnosed as suffering from Lumbar Spondylitis. However the RMB was conducted and the applicant was released from service on premature retirement. According to the applicant he contracted the ailment on 23.04.2023 and even while in service he submitted an application for conducting a Review Medical Board for examining the said ailment which according to him was contracted during service. When the prayer for grant of a Review Medical Board was not acceded to he invoked the jurisdiction of this Tribunal.

4. On notice being issued the respondents filed a detailed counter affidavit. The main objections raised in Paras 10, 11 and 12 of the counter affidavit read as under:

10. It is submitted that as per Para 8 of Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008, it is clarified that "Cases in which a disease was not present at the time of the member's retirement/discharge from service but arouse 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 delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge.

11. However, in the instant case, the Applicant's disability of "Lumber Spondylosis" was not accounted for while conducting the Release Medical Board at the time of retirement.

12. Further, in so far as the Applicant's representation/application dated 20.10.2023 for conducting of Review Medical Board for the disability of "Lumber Spondylosis" is concerned, it is submitted that the same does not seem to have been received by the Respondents as the same is not available in his service documents, hence the same was not replied to.

From the aforesaid it is clear that the applicant sought a Review Medical Board within seven years of his discharge/retirement from military service. The issue as to whether the ailment existed before his discharge or was contracted thereafter is one that has to be decided by the Medical Board on examination. The fact remains that even if it is assumed that the ailment was not existing at the time of his discharge the fact that it manifested within seven years entitles the applicant to claim the relief sought in this application. That apart without expressing any opinion on the merits of the claim made by the applicant regarding Lumber Spondylosis and its onset we find that the respondents themselves as indicated in Para 13 forwarded the matter to the IHQ MoD (Army) (DGMS-5A) vide Annexure R6 on 18.07.2024 and till date no action has been taken.

5. Considering that the applicant's claim for conducting the Review Medical Board is covered by Para 8 of the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel,

2008 we allow this application and direct that medical examination of the applicant as prayed for be conducted and a report prepared and furnished to the applicant within a period of three months from the date of receipt of a copy of this order.

6. We further clarify that in light of the Rules of 2023 which have now come into force the medical examination shall be in accordance with the said Rules, that is to say not a Review Medical Board but a Post Discharge Medical Board to assess the claim of the applicant. Action shall be taken and compliance ensured within three months.

7. OA Disposed of accordingly.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON



**[LT. GEN. SHASHANK
SHEKHAR MISHRA]**
MEMBER (A)

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