

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

OA 2257/2024

Lt Col Trilok Singh ... Applicant
Versus ...
Union of India & Ors. ... Respondents

For Applicant : Mr. Anil Srivastava, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM

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

ORDER

The applicant has filed this application under Section 14 of the Armed Forces Tribunal Act, 2007, primarily aggrieved over the non-receipt of proceedings of Re-Assessment Medical Board, and subsequent non-grant of disability pension.

2. The applicant was commissioned on 31.03.1972 and took premature retirement on 15.11.1999. During the period of service, he suffered an injury in Aug, 1987 in Ladakh, which was assessed by RMB dated 04.10.1999 @20% for 2 years and held attributable to service.

3. Subsequently, he filed an OA 1819/2018, wherein vide order dated 12.10.2023, this Tribunal directed the conduct of a Re-survey Medical Board for re-assessment of disability of the applicant beyond the period of 2 years from 24.08.1997. In compliance of the directions issued by this Tribunal, a Re-

assessment Medical Board was conducted vide Sanction letter no. 76101/RAMB/DGMS-5A dated 29.12.2023. The Re-assessment Medical Board assessed the disability @59.7% wef 17.04.2024, whereas for the intervening period from 16.11.2001 to 17.04.2024, the same was assessed to be 20% as held by the Release Medical Board. However, his case for grant of disability pension was not processed and thus, this OA.

4. We had issued notice to the Respondents vide our order dated 19.07.2024, which was accepted by Maj Sridhar, OIC, Legal Cell, and an opportunity to file Counter Affidavit in 2 weeks was granted. However, despite repeated ample opportunities granted vide our orders dated 13.09.2024, 11.11.2024, 13.12.2024 and 21.03.2025, the Counter Affidavit was not filed, and thus, we proceeded to hear this matter finally, and the same has been reserved vide our order dated 23.05.2025, and the original proceedings of RAMB are taken on record.

5. On a perusal of the proceedings of Re-assessment Medical Board, we note that the disability of the applicant- FRACTURE DISLOCATION SHOULDER (RT) has been assessed @59.7% whereas for the intervening period, the same was assessed @20% from 16.11.2001 to 17.04.2024. We further note that vide the Specialist Opinion, it has been observed to the effect,

"The present clinical and radiological condition of the patient has worsened since the previous assessment."

6. With the aforesaid observation of the Specialist, and the fact that the disability has been held as attributable to service, we find that all the pre-requisites have been fulfilled for grant of disability pension as per Regulation 81(a) of the Pension Regulations for the Army, 2008, and thus, we find no reason whatsoever to not allow this OA.

7. It is essential to observe that the factum that as laid down by the Hon'ble Supreme Court in *Dharamvir Singh v. Union of India [(2013) 7 SCC 316]*, a personnel of the armed forces has to be presumed to have been inducted into military service in a fit condition, if there is no note or record at the time of entrance in relation to any disability, in the event of his subsequently being discharged from service on medical grounds the disability has to be presumed to be due to service unless the contrary is established, ~ is no more *res integra*.

8. Therefore, in light of the settled law laid down by the Apex Court in *Dharamvir Singh (supra)* and the observation made above, we are of the opinion that the applicant is entitled to grant of disability element of pension @20% for the intervening period from 16.11.2001 to 17.04.2024 rounded off to 50%, and subsequently, @59.7% rounded off to 75% wef

17.04.2024 in view of judgement of Hon'ble Apex Court in *UOI vs. Ram Avtar (supra)*.

9. However, as the applicant has approached the Tribunal after a considerable delay, in view of the law laid down in *Union of India & Ors. v. Tarsem Singh* [2009 (1) AISLJ 371], arrears of disability element of pension will be restricted to commence to run from three years prior to the date of filing of earlier O.A. 1819/2018, wherein the applicant first approached this Tribunal for grant of disability Pension, being the initial cause of action. Respondents are further directed to give effect to the order within three months from the date of receipt of a certified copy of this order failing which the respondents shall have to pay interest @ 6% per annum till the date of actual payment.

10. No order as to costs.

11. Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on this 30 day of July, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc/-