

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

83.

OA 3459/2023

Ex MCPO LOG I (Hony Sub LT) Rihan Applicant
Raza Khan
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. Arvind Kumar, Advocate

CORAM

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

ORDER
24.09.2025

OA 3459/2023

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

“(a) Direct the respondents to conduct Re-survey/Review Medical Board/Appeal Medical Board of the applicant.

“(b) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.”

2. On notice being issued, the respondents have filed a detailed counter affidavit. Facts that have come on record indicate that the applicant was enrolled in the Indian Navy

on 06.01.1986 and was discharged on 31.01.2023 after completing 37 years and 26 days of service. At the time of discharge of the applicant, the Release Medical Examination (RME) was conducted and he was found to be fit for discharge from service in S1A1 category as it evident from Annexure R-1. However, it is the case of the applicant that after discharge from service, he reported problems and sought Re-survey Medical Board (RSMB) and the respondents rejected the same on the ground that as the applicant was discharged from service in S1A1 category, the RSMB cannot be conducted.

3. However, on a perusal of the counter affidavit filed by the respondents and the averments made in reply to Para 8(a) and 8(b), it is seen that even though the applicant was discharge from service in the medical category S1A1, the Regulation 105 of the Navy Pension Regulation, 1964 provides as under:

“An individual who is discharged from service, otherwise than at his own request, with a pension or gratuity, but who, within a period of seven years from the date of discharge is found to be suffering from a disease which is accepted as attributable to service may, at the discretion of the competent authority, be granted in addition to his pension or gratuity, a disability element at the rate appropriate to the accepted degree of disablement and the substantive rank last held, with effect from such date as may be decided upon by the competent authority in the circumstances of the case.”

4. From the aforesaid, it is clear that when an individual discharge from service with pension and gratuity but within a period of seven years from the date of discharge, he is found to be suffering from disease, he can be granted appropriate benefit and 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.”

5. As the applicant has sought for the RSMB within a period of seven years from his discharge, as per Para 8 (a) of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008, the applicant is entitled to the RSMB as claimed for in the application, however, subject to amendments made in the Medical Rules, 2023.

6. Accordingly, we allow this application and direct that the Post Discharge Medical Board of the applicant as provided in the Medical Rules, 2023 be conducted within a

period of three months from the date of receipt of a copy of this order and a report be submitted to the applicant.

7. With the aforesaid, the OA stands allowed.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON



[LT GEN SHASHANK SHEKHAR MISHRA]
MEMBER (A)

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