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

OA 4866/2024

Col Rajendra Gupta (Retd) ... Applicant  
Versus  
Union of India & Ors. ... Respondents

For Applicant - Mr. Manoj Kumar Gupta, Advocate  
For Respondents - Mr. Sundeep Kumar, Advocate

CORAM :

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA praying to direct the respondents to accept the disability of the applicant as held aggravated by military service and grant disability element of pension @70% rounded off to 75% with effect from the date of retirement of the applicant; along with all consequential benefits.

2. The applicant was commissioned in the Indian Army on 10.08.1987 and superannuated from service on 30.09.2021 under the clause on "On attaining the age of superannuation". The RMB not solely on medical grounds was held and found the applicant fit to be released in low medical category P3 and suffering from the ID - 'Ankylosing

Spondylitis' @70% with the RMB having opined the disability as being 'aggravated by military service.'

3. However, the disability pension claim of the applicant was rejected, following which applicant submitted first appeal dated 05.02.2022, which was again rejected on the ground that the onset of the disability was in Peace Station i.e. Secunderabad. Subsequently, applicant filed a second appeal dated 11.02.2023, which was rejected on the similar grounds as the first appeal. Aggrieved, the applicant has preferred this OA.

**Submissions on behalf of the Applicant**

4. The applicant submitted that he has attained the present disability after serving for a long period of 14 years which makes it clear that the disease was not pre-existing and his disability was due to service, and has subsequently served for more than 20 years after the detection of the disability. The applicant has further submitted that at the time he was inducted into the Indian Army, he was medically fit and after having undergone a thorough medical examination at the Training Centre, he was posted to various places during his service, including Chari and Chakba, both Field (CI Ops) postings, and when the initial detection of the disability was

done, he was posted in Poari, again a Field posting, following which, even after the detection and onset of the disability, he has served in three Field postings including Srinagar, Narian and Joshimath, with total tenure in Field prior to onset being almost 7 years, and post onset being almost 6 years.

5. Inter alia, the applicant places reliance on the verdict of the Hon'ble Supreme Court in Dharamvir Singh Vs UOI & Ors [(Civil Appeal No 4949/2013) 2013 AIR SCW 4236], UOI & Ors. Vs Rajbir in Civil Appeal No. 2904/2011, decided on 13.02.2015, in the case of Sukhvinder Singh Vs UOI & Ors [2014 STPL (Web) 468 SC] in UOI & Ors Vs Manjit Singh (AIR 2015 SC 2114), and the judgement of Hon'ble Delhi High Court in Union of India & Ors. Vs Col Balbir Singh [2025:DHC:5082-DB] to contend to the effect that the disability has already been held by the Release Medical Board as 'aggravated by military service' and thus, the administrative authority cannot overrule the opinion of the Release Medical Board. The applicant also submits that in terms of the verdict dated 10.12.2014 of the Hon'ble Supreme Court in UOI Vs Ram Avtar in Civil Appeal No.418/2012, the applicant is entitled to rounding off of the disability

pension assessed @70% for life to 75% for life from the date of retirement.

**Submissions on behalf of Respondents**

6. The respondents through the counter affidavit dated 08.05.2023 filed on their behalf that at the time of discharge of the applicant though the Release Medical Board held the disability to be 'aggravated by military service' yet the competent authority on adjudication carefully considered the applicant's medical history and concluded that the disability does not have any attribution to the military service, and that the competent authority may, for reasons to be recorded in writing, alter or modify the recommendations of the medical boards.

**Consideration**

7. On a perusal of aforesaid contentions, and the documents placed on record, we are of the view that the only primary question which requires adjudication by this Tribunal is whether the PCDA has power to overrule the opinion of the duly constituted Medical Board?

8. We are of the view that the administrative decision taken by the respondents to deny disability element of pension to the applicant is against the decisions of the Hon'ble

Supreme Court in Ex Sapper Mohinder Singh Vs Union of India and another [C.A No. 164 of 1993; Date of decision: 14.01.1993] and Dharamvir Singh Vs Union of India and others [(2013) 7 SCC 316]. The IHQ (Army) has also issued a letter dated 25.04.2011, the relevant portion of which is reproduced below:

*“2 These alterations in the findings of IMB/RMB by MAP (PCDA(P)) without having physically examined the individual, do not stand to the scrutiny of law and in numerous judgments, Hon'ble Supreme Court has ruled that the medical Board which has physically examined should be given due weightage, value and credence.*

.....

*4. All Command HQs are requested to instruct all Record Offices under their command to withdraw unconditionally from such cases, notwithstanding the stage they may have reached and such file be processed for sanction.”*

9. In a catena of judgments (pointedly, O.A No. 270 of 2016 of AFT, RB, Chandigarh), this Tribunal has reaffirmed with consistency that due credibility and primacy has to be given to medical board proceedings. Whether it be the PCDA or an administrative authority, refutation of a medical opinion can only be by another more competent medical opinion. We do not find any justifiable reason on the part of the respondents in denying the disability element of pension

to the applicant, especially when the Release Medical Board had clearly determined the aggravation to his disability to his postings in Field areas and assessed his disability @ 70% for life respectively.

10. Noting the aforesaid, we are of the considered opinion that the applicant is entitled to grant of disability element of pension @ 70% for life from the date of his retirement. Further, in view of the judgment of the Hon'ble Supreme Court in Union of India and others Vs Ram Avtar in C.A No. 418 of 2012 dated 10.12.2014, the applicant is entitled to get the disability element of pension broad banded to 50%, based on the Government notification dated 31.01.2001.

11. Consequently, the O.A 4866/2024 is allowed directing the respondents to grant disability element of pension to the applicant @ 70% and broadband the same to 75% w.e.f. the date of retirement of the applicant. Needless to say the restriction of three years as laid down in the case of UoI Vs Tarsem Singh, will not be applied herein, since the delay in filing the OA is not attributable to the applicant and that it is attributable to the Respondents because of the delay in disposal of Second Appeal, wherein the Second Appeal dated 11.02.2023 was adjudicated and rejected

on 27.08.2024 i.e. only after one year and six months.  
Therefore, we are of the view that restriction on the arrears  
will not be applied in the instant case.

12. The respondents are directed to calculate, sanction and  
issue the necessary Corrigendum PPO to the applicant within  
three months from the date of receipt of the copy of this order  
and in the event of default, the applicant shall be entitled to  
the interest @6% per annum on the arrears till the date of  
payment.

13. No order as to costs.

14. Pending miscellaneous application(s), if any, are  
disposed of.

Pronounced in the open Court on 29 day of August 2025.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Akc/