

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 750/2021

**Ex Rect Mayank Oli
Versus
Union of India and Ors.**

**..... Applicant
..... Respondents**

For Applicant : Mr. Nasir Mohd, Advocate for
Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC

CORAM

**HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)**

ORDER

This application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, seeking following reliefs:

"(a) To quash the denial of disability pension dated 18.03.2019 and rejection of appeal of disability pension letter dated 14.07.2020 may be quashed and direction may be issued to pay disability pension from the date of discharge with 9% interest.

(b) To pass any other order deemed fit and proper in the facts of the case.

Interim Relief. The applicant prays to release the basic allowance of training which was not given till date and present all medical reports."

2. However, during the course of arguments on 03.03.2025, Mr. Inder Sen Singh, learned counsel for the applicant made an oral submission to amend/modify and confine his prayer to grant of

Invalid Pension only. Thus, the present case is being considered qua the prayer for the grant of Invalid Pension only.

3. The applicant was enrolled in the Army on 17.03.2018 and invalided out from service on 28.01.2019 (AN) under Army Rule 13(3) IV for his disability 'CNS Inflammatory Granuloma with Seizures (ICD No.G 06.0)' after having been placed before a duly constituted Invaliding Medical Board (hereinafter called IMB) held at MH, Ahmednagar on 08.12.2018. The IMB assessed his disability at 20% for life and found the same to be 'neither attributable nor aggravated' by military service.

4. The applicant's case for Disability Pension was considered by the competent medical and administrative authorities in terms of Para 53 of Pension Regulation for the Army, 2008 Part-1 and the applicant was intimated vide letter No.14949726/DP dated 18.03.2019 that his claim had been rejected. The applicant submitted a petition on 15.04.2020 which was once again rejected vide Records Mech Inf Regiment (MIR) letter dated 14.07.2020 and later his second appeal was also rejected vide Records MIR letter dated 12.10.2020. Being, thus aggrieved, the applicant has filed this OA.

5. Learned counsel for the applicant relies upon the judgement of a Coordinate Bench of AFT (PB) dated 31.01.2025 in the case of **NMER Shish Pal Bhadana (Retd.) Vs. Union of India & Others** in OA No.3698/2023 to submit to the effect that the case of the applicant is also identical in nature to the applicant of the above-quoted OA, who was invalided out from service after barely six months of being recruited and held to be eligible for grant of Invalid Pension for life.

6. Pressing further his claim, learned counsel for the applicant also cited the judgement of this Tribunal in another case, i.e., **Lt A K Thapa (Released) Vs. Union of India & Ors.** in OA No.2240/2019 dated 07.07.2023 and order of AFT (RB), Lucknow in the case of **Ex Recruit Chhote Lal Vs. Union of India & Ors.** in OA No.368/2021 wherein the MoD letter No.12(06)/2019/D(Pen-Pol) dated 16.07.2020 has been examined in detail. Vide this MoD, benefit of Invalid Pension was also made admissible to Armed Forces Personnel with less than 10 years of qualifying service in cases where personnel are invalided out of service on account of any bodily or mental infirmity which is neither attributable to nor aggravated by Military Service.

7. He submitted that in the later case the applicant who was invalidated out after serving 06 months and 04 days was found entitled for grant of Invalid Pension. The applicant who is identically placed is, therefore, also entitle for grant of Invalid Pension.

8. Per contra, learned counsel for the respondents drew our attention to the medical documents of the IMB placed on record through the counter affidavit wherein it has been recorded in the medical history that the applicant was suffering from the illness since 2009 prior to joining the service.

9. It is pointed out that this fact was not disclosed by him during the medical examination at the time of recruitment. The applicant is personally guilty of deliberately withholding information about his medical history from the competent medical authorities at the time of recruitment and, therefore, he cannot be held entitled to grant of invalid pension. He places reliance on judgements of this Tribunal in the case of **Ex Rect Ravi Prakash** Vs. **Union of India & Ors.**, in OA No.791/2016 decided on 20.11.2024 and **Ex NC(E) (U/T) Rahul Vishnu Kakde** Vs. **Union of India & Ors.**, in OA No.1283/2022 decided on 09.12.2024 to submit to the effect that the case of the applicant is liable to be dismissed on above accounts.

10. We have heard learned counsel for the parties and perused the material placed on record in support of their submissions. Proceeding to adjudicate the case on merits for grant of invalid pension in the light of the modified prayer of the applicant, we consider it essential to place on record our careful consideration of the Medical Board at the time of invalidation of the applicant wherein the summary and opinion of the Medical Board held at MH, Ahmednagar is extracted as under:

OPINION OF THE MEDICAL BOARD

1. Casual relationship of the Disability with Service conditions or otherwise.				
Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Not committed with Service (Y/N)	Reason/Cause/Specific conditions and petted to service
CNS INFLAMMATORY GRANULOMA WITH SEIZURES (ICD No G 06.0)	No	No	Yes	AS PER HISTORY PATIENT ALREADY SUFFERING FROM THE ILLNESS SINCE 2009 BEFORE JOINING SERVICE

SUMMARY AND OPINION

Diagnosis: **CNS inflammatory granuloma with seizures**

Onset: 28 Sep 2018

Place: Ahmednagar

History. ***This 20 years Rect. Transfer in from MH Ahmednagar as a case of CNS(Inv). Patient was apparently asymptomatic till the night of 28 Sep 18 2130 hrs when he had an episode of generalised body stiffening with frothing from mouth followed by significant post ictal confusion, witnessed by platoon havaldar. No h/o tongue bite/ sphincter incontinence. He was evaluated at MH Ahmednagar initially, MRI brain was don on 02/10/18 which revealed no significant abnormality. Patient gave history of 2 episodes of GTCS in 2009, evaluated in civil hospital with MRI Brain which was s/o solitary inflammatory granuloma left frontal parafalcine location. He was started on AEDs in 2009 which he took for 3 years (2009-2012), he claims that there was no recurrence of seizure after 2009. No h/o alcohol consumption, febrile seizures, myoclonus, head trauma or family history of seizures. Following this episode,***

he was asymptomatic and was transfer red to this centre for opinion. He was evaluated for his condition. EEG and sleep deprived EEG was normal study. NCCT head (ID 4496-18 dated 11/10/18) revealed calcified granuloma 5 mm diameter in left basifrontal region in parafalcine location. He was started on AED and continues to be asymptomatic and seizure free on AEDs.

(emphasis supplied)

11. The Medical Board has also recorded its observation at Page No.5 (Para 2 and 3) which are reproduced as under:

2. Did the disability exist before entering service? (Y / N / Could be)

Yes

3. In case the disability existed at the time of entry, is it possible that it could not be detected during the routine medical examination carried out at the time of the entry?

Yes

12. We consider it pertinent to peruse the medical form for conduct of medical examination at the time of recruitment which is placed below:

1. Service No.....	2. Name.....
3. Father's Name.....	4. Date of birth.....
5. Apprent age.....	6. Army/Navy/Air Force.....
7. Permanent address :- Village - Post Office..... Tehsil..... District.....	
8. Identification Marks :- (1)..... (2).....	
9. Relevant Family History :-	
10. Past medical history : specially of fits	
11. Eyes	Right Left CP
(a) Without Glas.....	
(b) With Glas.....	
(c) Near vision.....	NORMAL.....
12. Upper limbs and locomotive system	(a) Upper Limbs..... (b) Locomotive..... NAD.....
13. Hearing	(a) Right Ear : (b) Left Ear : C. Any evidence of otitis media - Nil
14. Physical Development	(a) Height without shoes.....CMS As obtained from RO (b) Weight..... KGS
15. Respiratory System	(a) Chest Measurement (i) Full expiration.....CMS As obtained (ii) Range of expansion.....CMS from RO
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16. Genito Urinary System

Urine (a) Albumen

(b) Sugar

(c) Other abnormalities

17. Any Evidence of skin/venereal disease

18. Cardio-Vascular System

(a) Pulse

(b) B.P. (if necessary)

19. Central Nervous System -

20. Abdomen - 21. Liver - 22. Spleen -

23. Hernia -

24. Teeth (a) No. of dental points

(b) Condition of Gums

25. Mental Capacity and emotional stability: -

(a) Speech

(b) Evidence Suggesting

26. Slight - Defects not sufficient to cause Rejection

27. Found fit in medical category

Place.....

Date Recruiting Medical Officer

*(Medical examination at the time of recruitment is not exhaustive and may miss some hereditary, congenital, constitutional, sub clinical diseases, which may manifest later in life)

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13. Having noted that the relevant family history to be recorded at Para 9 and 10 of the form, we have come to a conclusion that the applicant has not come with clean hands. At the time of recruitment, the applicant had deliberately hidden the facts from the medical authorities with respect to his own or family medical history, and, therefore, we hold him accountable for misleading the medical board by deliberately withholding very important information about himself.

14. It is also essential to note the observations of this Tribunal in the case of ***Ex NC(E) (U/T) Rahul Vishnu Kakde*** (supra) wherein Para 12 reads to the effect:

12. It is important to observe from the aforesaid Medical Form that the primary medical examination conducted at the time of enrolment of PBORs is not a rigorous medical examination procedure as followed during the Cat/Re-Cat Medical Boards or for that matter RMB/IMB, and that any disability which can escape the initial medical examination cannot be used as a tool to claim invalid pension even without rendering service of even one month to showcase any relation of invalidation or any link whatsoever to the military service. It is pertinent to record that just for the sole purpose a disability escaped the detection of the Initial Medical Examination, which could have been a genuine error on the part of the Recruiting Medical Officer, does not ipso facto make an individual entitled for Disability Pension.

15. In the instant case with respect to primacy of the expert medical opinion, we find resonance in the judgement of Hon'ble Supreme Court in the case of ***Ex CFN Narsingh Yadav Vs. Union of India & Ors.***, (Civil Appeal No.7672/2019) wherein the issue of medical opinion is no longer *res integra*.

16. We find that the judgement of ***Lt A K Thapa (Released)*** (supra), ***Ex Rect Chhote Lal Vs. Union of India & Ors.*** (OA No.368/2021 decided on 11.03.2022) and ***NMER Shish Pal Bhadana (Retd.)*** (supra) relied upon by the applicant has no application to the peculiar facts and circumstances of the present, wherein the applicant deliberately made a false declaration at the time of entry, despite the fact that he was aware of his ailment.

17. We note that this fact came to light/knowledge on 15.09.2018, when the applicant while being evaluated for seizure at MH, Ahmednagar, gave history of two episodes of GTCS in 2009, evaluated in Civil Hospital with MRI Brain which was s/o solitary inflammatory granuloma left frontal parafalcine location. He was started on AEDs in 2009, which he took for 03 years (2009-2012).

18. We observe that he got accepted in service by giving incorrect information since his disability could not have been detected by the Medical Board at the time of recruitment. Such a person cannot be permitted to take advantage of his own wrong. We have noted that the medical examination at the time of entry into service is conducted to a limited physical extent only wherein the Recruiting Medical officer has also to rely upon the declaration by the candidates aspiring to join the services as soldiers.

19. It is also essential to take note of the factum that such an ailment could not have been detected during a routine medical examination and even though he was evaluated and an MRI done on 02.10.2018, no significant abnormality was detected. It was only after NCCT (head) dated 11.10.2018 was conducted that Calcified Granuloma was revealed and accordingly, the applicant was

declared medically unfit for further retention in service and invalidated out.

20. In conclusion, we do not find any merit in the prayer of the applicant for grant of 'Invalid Pension' and dismiss the OA being devoid of merit.

21. No order as to costs.

22. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 26th day of May, 2025.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

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

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