

applicant within stipulated/fixed time say four weeks alongwith interest @12% p.a. on accrued payment from the date of retirement i.e. 01.10.1994.

(II) Issue any other appropriate order or direction which this Hon'ble Bench may, deem fit and proper under the circumstances of this application."

BRIEF FACTS

2. The applicant, having been found mentally and physically fit after thorough medical examination, was commissioned in the Indian Army on 16.04.1970 and retired from service on 30.09.1994 on reaching the age of superannuation. At the time of retirement from service, the applicant was placed in permanent low medical category S1H1A1P2E1 for the disabilities (i) Cardiac Arrhythmia, (ii) NIDDM and (iii) Generalised Seizure. The Release Medical Board held on 22.04.1994 assessed the applicant's disabilities '(i) Cardiac Arrhythmia 724d @ 20% for five years (ii) NIDDM @ 20% for five years and (iii) Generalised Seizure @ 20% for five years, with composite assessment of disabilities @ 50% for 5 years. However, the RMB held the disability of the applicant 'NIIDM' as 'Aggravated' by Military Service' and other two disabilities as NANA, the Competent

Authority held the said disability as well as the other disabilities i.e. Cardiac Arrhythmia and Generalised Seizure as 'neither attributable to nor aggravated by military service' (NANA).

3. The initial claim of the applicant for grant of the disability pension was rejected by the competent authority and the said decision was communicated to the applicant vide letter No. 2(31)/95/D(Pen-C) dated 01.06.1995 with an advice that in case, the applicant is not satisfied with the decision of the respondents, he may prefer an appeal to the Appellate Committee within six months from the date of issue of the above mentioned letter. However, the applicant submits that he is not receipt of the said rejection letter of the respondents. The applicant thereafter sent legal notice dated 13.11.2017 through his counsel regarding grant of disability pension which was rejected by the competent authority being time barred. Thereafter, the applicant approached this Tribunal directly. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2)(b) of the AFT, Act 2007.

CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the prayers made in the present OA are confined to the grant of disability element of pension in relation to the disability of (i) NIDDM @ 20% for 5 years only and the prayer made for grant of disability element of pension in relation to disabilities of (i) Cardiac Arrhythmia 724d @ 20% for five years and (iii) Generalised Seizure @ 20% for five years, is not pressed.

5. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit mentally and physically and no note of disability was made in his medical record at the time of entering the service and any medical disability contracted by him during the course of his service should be treated as being attributable and aggravated by the stress and strain of his service. The learned counsel for the applicant submits that the Release Medical Board (RMB) examined the applicant carefully and considered his disability, Non-Insulin Dependent Diabetes Mellitus (NIDDM) as Aggravated due to military service. However, the higher authority overruled the medical opinion

and rejected the finding of the RMB without giving any clear or proper medical reason.

6. The learned counsel for the applicant further contended that the instant matter is squarely covered by a catena of judgments of the Hon'ble Supreme Court such as ***Union of India & Ors. Vs. Manjeet Singh (2015) SC 2114, Dharamvir Singh Vs. Union of India & Ors. [2013 (7) SCC 316]***, and ***Civil Appeal No. 418/2012 decided on 10.12.2014 titled Union of India and Ors. Vs. Ram Avtar.*** and the orders passed by this Tribunal and submitted that the respondents' action in denying the grant of the disability pension to the applicant is unjustified and unlawful because the disability 'NIIDM' recorded by the RMB occurred during the military service and was considered 'Aggravated by the Military Service'. The learned counsel, therefore, prayed that the disability in question may be held to be attributable to/aggravated by military service and that the disability pension may be granted to the applicant.

7. *Per contra*, the learned counsel for the respondents submitted that the RMB assessed his disability 'NIDDM' as Aggravated due to military service, however the

Competent/Admin authority considered his disability as neither attributable to nor aggravated by military service as the opinion of the Medical Board is recommendatory and Competent Authority decides the attributability/aggravation of the assessed disability to military service and since the applicant's disability does not fulfill one of the twin conditions in terms of Regulation 53 of the Pension Regulations for the Army, Part-1, 1961, as the same was assessed as neither attributable to nor aggravated by military service, and therefore, the applicant is not entitled to the grant of the disability element of pension and the OA thus, deserved to be dismissed.

ANALYSIS

8. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we find that the applicant has been suffering from three disabilities viz. (i) Cardiac Arrhythmia @20%, (ii) Non-Insulin Dependent Diabetes Mellitus (NIDDM) @20% and (iii) Generalised Seizure @20% which have been considered as NANA by the respondents.

9. In view of the submission made on behalf of the applicant that the disabilities of (i) Cardiac Arrhythmia

@20%, and (iii) Generalised Seizure @20%' are not being pressed presently, we adjudicate only for the disability of 'Non-Insulin Dependent Diabetes Mellitus (NIDDM)' @ 20% for 5 Years.

10. It is evident from the record that the RMB, which is an expert body, has already conceded the disability of the applicant "NIDDM" as 'Aggravated by service' and the reasons for concluding so have also been mentioned in the RMB proceedings. However, the competent authority had interfered with the opinion of the RMB with regard to the disability of 'NIDDM' and considered the same as NANA.

11. The issue of sanctity of the opinion of the Release Medical Board on its overruling by a higher administrative authority formation is no more *Res Integra*. The Hon'ble Supreme Court in the case of **Ex. Sapper Mohinder Singh vs Union of India & Others**, in Civil Appeal No. 164 of 1993, decided on 14.01.1993, which has been followed in large number of cases by the Tribunal, has made it clear that without physical medical examination of a patient, a higher formation/administrative authority cannot overrule the

opinion of a Medical Board. The relevant part of the aforesaid judgment is quoted below:-

“From the above narrated facts and the stand taken by the parties before us, the controversy that falls for determination by us is in a very narrow compass viz. whether the Chief Controller of Defence Accounts (Pension) has any jurisdiction to sit over the opinion of the experts (Medical Board) while dealing with the case of grant of disability pension, in regard to the percentage of the disability pension, or not. In the present case, it is nowhere stated that the Applicant was subjected to any higher medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the Applicant. We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board which can be constituted under the relevant instructions and rules by the Director General of Army Medical Core.”

12. Therefore, in light of the aforesaid judgment in **Ex Sapper Mohinder Singh** (*supra*) as well as records of the RMB, it is clear that the opinion qua the disability ‘NIDDM’ of the RMB cannot be overruled by the administrative authority. Hence, the decision of competent authority is void in law. Therefore, we are of the view that the disability i.e. ‘NIDDM’ assessed @ 20% for five years of the applicant be considered

as aggravated by military service as has been opined by the RMB, the said disability of the applicant meets the twin conditions of Regulation 53 of the Pension Regulations for the Army, Part-1, 1961 and is thus admissible.

13. In so far as the disability of the applicant, which was considered to be of permanent nature, but assessed for a particular period i.e. for five years is concerned, it is important to refer to the judgment of Hon'ble Supreme Court in the case of **Commander Rakesh Pande Vs. Union of India & Ors.** [Civil Appeal No. 5970 of 2019] decided on 28.11.2019, wherein the Hon'ble Apex Court while interfering with the decision of the Armed Forces Tribunal granting disability pension for five years to the applicant, granted the disability for life and observed as under :

"Para 7 of the letter dated 07.02.2001 provides that no periodical reviews by the Resurvey Medical Boards shall be held for reassessment of disabilities. In case of disabilities adjudicated as being of permanent nature, the decision once arrived at will be for life unless the individual himself requests for a review. The appellant is afflicted with diseases which are of permanent nature and he is entitled to disability pension for his life which cannot be restricted for a period of 5 years. The judgment cited by Ms. Praveena Gautam, learned counsel is not relevant and not applicable to the facts of this case. Therefore, the appeal is allowed and the appellant shall be entitled for disability pension @ 50% for life."

[Emphasis supplied]

14. Thus, a person afflicted with diseases which are permanent in nature is entitled to disability pension for life which cannot be restricted for a period of time and the assessment/ percentage of disability as made by the Medical Board has to be treated for life.

15. Therefore, we are of the opinion that the disability i.e. 'NIDDM' of the applicant be considered as aggravated by military service as has been opined by the RMB. As the disability of NIDDM has been assessed @20%, the said disability of the applicant meets the twin conditions of Regulation 53 of the Pension Regulations for the Army, Part-1, 1961 and is admissible.

CONCLUSION

16. In view of our analysis made above, the OA 772/2018 is allowed. The respondents are directed to grant the disability element of disability pension for the disability of 'NIDDM' to the applicant @ 20% for life which is directed to be rounded off to 50% for life from the date of retirement in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012)** decided on 10.12.2014. However, as the applicant has approached the Tribunal after a

considerable delay, in view of the law laid down by the Hon'ble Apex Court in **UoI & Ors Vs Tarsem Singh**, arrears will be restricted to three years prior to the date of filing of this OA i.e. 13.04.2018.

17. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within three months from the date of receipt of copy of this order, *failing which*, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

18. There is no order as to costs.

Pronounced in open Court on this th 28 day of November, 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (A)

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/nmk/

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

A.

OA 772/2018

Lt Col Surya Pal Singh (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Trilok Nath Saxena,
Mr. HC Kharbanda and
Mr. Vipin Kumar Saxena, Advocates
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
28.11.2025

Judgment in this matter has been pronounced today vide a separate signed order. At the time of hearing, certain original documents were kept by us for perusal. Since the judgment in the matter has now been pronounced, these documents be returned to the respondents after taking due acknowledgement.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)