

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

30.

RA 8/2025 in OA 1972/2019

Ex Sep Salik Ram Sharma Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Neeraj, Sr CGSC with
Mr. Rudra Paliwal, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
08.04.2025

RA 8/2025

Seeking the review/recall of an order passed by this Tribunal in OA 1972/2019 on 07.02.2025, this application has been filed under Section 14(4)(f) of the Armed Forces Tribunal Act, 2007.

2. Invoking the jurisdiction of this Tribunal under Section 14, the applicant had filed original application seeking grant of disability pension and broad banding. However, at the time of hearing on 07.01.2025 learned counsel for the applicant confined his prayer for grant of invalid pension. It was the case of the applicant that as per Release Medical Board conducted vide AFMS-16 on 28.02.1977 at the time of discharge the applicant was

found in low medical category on account of disability for 'Traumatic Synovitis Rt Knee' which was held as neither attributable to nor aggravated by military service but the disability was assessed @ 20% for two years. The applicant claims that as he has been discharged on account of the aforesaid disability he is entitled to invalid pension as he has rendered 8 years 09 months and 21 days of military service.

3. While examining the matter based on the aforesaid facts, the records indicated that the applicant was discharged under Rule 13(3) III(v) of the Army Rule, 1954 on administrative ground for having earned more than 04 red ink entries. It was found that the applicant was punished on several occasions while in service as detailed in the para 11 of the order passed by this Tribunal and therefore he was discharged under the aforesaid provision of the Army Rule and it was not a case where he was discharged on medical ground. After analyzing, this Tribunal came to the conclusion that as the applicant was discharged based on the misconduct/indiscipline on administrative grounds, he is not eligible for invalid pension. Now by this review application, the applicant submits that as he was discharged on medical ground as he was placed in the low medical category, he is

entitled for invalid pension and in complying with the law laid down by the Hon'ble Supreme Court in the case of Union of India Vs. Corporal AK Bakshi [AIR 1996 SC 1368] rejecting his claim on the ground that the discharge was on administrative/misconduct a grave error has been committed by this Tribunal.

4. Learned counsel for the applicant invites our attention to two judgments, one by the Regional Bench, Jaipur (OA 506/2018) Ex Cpl Sohan Ram Choudhary Vs. Union of India and Ors. decided on 26.04.2022 and another by a Coordinate Bench of this Tribunal in (OA 956/2016) Ex Sep Naginder Singh Vs. Union of India and Ors. decided on 6th March, 2020 to say that in both these cases invalid pension was granted.

5. We have considered the submissions made and we find that the applicant was denied the benefit of invalid pension only because his discharge was not on medical ground but on administrative ground. As far as applicability of the case of Ex Sep Naginder Singh (Supra) is concerned, the facts of the said case are entirely different. That was a case where the applicant was found to be suffering from 'Alcohol Dependence Syndrome' and had also disability of 'Mixed

flame burns back and right upper limb (Optd)'. He was denied invalid pension on the ground that he was discharged being an undesirable soldier and not entitled to disability pension. This Tribunal framed two questions, the first was as to whether a soldier discharged as undesirable soldier is entitled to disability pension or invalid pension. This question has been answered by holding that such a soldier is not entitled to invalid pension, the second question framed was as to whether the applicant in that case is entitled to disability/invalid pension. After examining the facts it was found with regard to the second issue that the applicant therein was not discharged on administrative ground but he was discharged on low medical category on account of disability of 'Alcohol Dependence Syndrome' and based on the policy governing the discharge of such applicant, the invalid pension was granted to him. That being so the said case is clearly distinguished and will not apply in the facts of the present case.

6. Similarly, in the case of *Ex Cpl Sohan Ram Choudhary (supra)* also even though disability pension and invalid pension were denied to the applicant therein on the ground that he was discharged being an undesirable soldier but on

examination of the record it was found by the Bench of this Tribunal that the applicant was discharged from service after having rendered more than 10 years of service on account of 'Alcohol Dependence Syndrome' and 'Recurrent Depressive Disorder'. He was discharged on medical ground and therefore invalid pension was granted to him, the facts of the said case are also entirely different.

7. That being so there is no error apparent on the face of record, as after going through the record the findings recorded were to the effect that the applicant has been discharged not on medical ground but on account of administrative ground due to Red Ink entries and the fact that he was an undesirable soldier.

8. Accordingly, we find no error apparent on the face of record warranting review/re-consideration, therefore, the application stands dismissed.

9. RA 8/2025 stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)