

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

OA No. 3676 of 2023 WITH MA 4959/2023

Sigmn C Sundaran (Retd) ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate

For Respondents : Mr. Sudhir Kumar, Advocate

CORAM :

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

O R D E R

MA 4959/2023

MA 4959/2023 is filed on behalf of the applicant seeking condonation of 7317 days delay in filing the present OA for reasons mentioned therein. In the interest of justice, in view of the judgments of the Hon'ble Supreme Court in the matter of *UoI & Ors Vs Tarsem Singh* (2008) 8 SCC 648 and in *Ex Sep Chain Singh Thr LR. Dhaneshwari Devi Vs Union of India & Ors* in Civil Appeal No. 022965/2017 arising out of Civil Appeal Diary No. 30073/2017 and the reasons mentioned, the

MA 4959/2023 is allowed and the delay of 7317 days in filing the OA is thus condoned. The MA is disposed of accordingly.

OA No. 3676/2023

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

“(a) To direct the respondents to grant Disability Element of pension for Onset of ID ‘Bipolar affective Disorder’, duly rounded off to 50% being attributable/aggravated as per GoI, MoD Order dt. 31 Jan 2001 upheld by the Hon’ble Apex Court in Ram Avtar us UoI &Ors ; and/or.

(b) Issue an order or direction of appropriate nature to the respondents to grant DE for life, in terms of Hon’ble Supreme Court judgment Cdr Rakesh Pandey (Supra) and Hav Inder Pal Singh (Supra), which has been followed in number of judgments, to meet the ends of justice and fair-play; and/or.

(c) To direct the respondents to grant the disability element of pension to the applicant by declaring the disability as attributable to and aggravated by military service in terms of Judgments/Order of Hon’ble Apex Court and this Tribunal including Annex-A6 and A7; and/or.

(c) To pass such further order or orders, direction/Directions as this Hon’ble AFT may deem fit and proper in accordance with law in the interest of justice and fair play.”

3. The applicant Ex Sigm C Sundaran was enrolled in the Indian Army on 25.11.1983 and was discharged on 31.03.2000 under Army Rule 13 (3) item III (v) read in conjunction with sub rule 2A being placed in permanent low

medical category and not recommended for continued retention in service being unwilling, through Release Medical Board with 16 years, 04 months and 06 days of qualifying service and was thus sanctioned Service Pension vide PPO No. S/011539/2000 dated 10.02.2000. The applicant at the time of his discharge, was placed in low medical category BEE(P) PMT for his disability viz, 'Generalised Seizures-345 V-67'. The RMB had assessed the disability as 'Neither Attributable to, Nor aggravated by the Service'(NANA) with composite assessment of 20% for two years, but the net assessment qualifying for disability pension was recorded as NIL for life.

4. The applicant's claim for grant of disability element of pension was rejected by the Competent Authority vide letter No. P/14253255/DP-2/NER dated. 26.07.2000 with an advice to the applicant to appeal against the rejection order. The first appeal dated 02.09.2002 filed by the applicant was rejected vide Signals Records letter No. P/14253255/DP-4/NER dated 19.09.2002, stating that the disability which he suffered from during service in this Army is not attributable or aggravated by Military Service, the applicant had been found not entitled to the disability element of

pension for the disability of 'GENERALISED SEIZURES-345 V-67'. Although no appeal was preferred by the applicant against rejection of the disability claim, the applicant submitted a petition dated 19.07.2023 seeking disability pension which was suitably replied to by Signals Records vide letter No. P/14253255/DP-2/NER dated 16.09.2023. Aggrieved by this, the applicant filed the present OA. In the interest of justice, it is considered appropriate to take up the present OA for consideration in terms of Section 21(1) of the AFT Act.

CONTENTIONS OF THE PARTIES

5. The applicant has submitted that he suffered with 'Generalised Seizures' in 02.01.1988 at Jafna, Srilanka and he underwent the Release Medical Board dated 21.12.1999 which indicated that he suffered from the Disability of 'Generalised Disorder' assessed @20% disability for two years. The applicant submits that at the time of entry into service, he had been subjected to a thorough medical examination conducted by a board of doctors and had been found medically fit at the Selection Centre in all aspects when he was enrolled in the Indian Army and even after selection he underwent a tough medical examination at the

Training Centre, and was found medically fit and no note of any disability was made in respect of any disease including the present disability at the time of entry into service. It is also submitted on behalf of the applicant that acceptance is on the basis of attributability, if the cause is infection, service related trauma, and that epilepsy can develop after time lag/ latent period of 7 years from the exposure to offending agent (Trauma, Infection, TB). The applicant submits that this factor should be borne in mind before rejecting epilepsy cases.

6. The applicant further submits that the RMB also ignored Para 423 of the Regulations for the Medical Services of the Armed Forces 2010, as per which it has been categorically stipulated to the effect that for the purpose of determining whether the cause of a disability or death is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Service/Active Service area or was under normal peace conditions, though it is essential to establish whether the disability or death bore a causal connection with the service conditions and that all evidence both direct and circumstantial, is to be taken into account

therein and the benefit of a reasonable doubt, if any, is to be given to the individual. As per the said regulations, the evidence to be accepted as reasonable doubt, for the purpose of these instructions, should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. The said regulations also stipulate that in this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his favour, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved, beyond reasonable doubt. It is further submitted in the said regulation that if on the other hand, the evidence be so evenly balanced as to come to a impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in cases occurring in Field Service/Active Service areas.

7. Reliance was placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in ***Dharamvir Singh Vs UOI & Ors*** (Civil Appeal No 4949 of 2013) SCC 36 and

the "Entitlement Rules for Casualty Pensionary Awards 1982", and Para 423 of the Regulations for the Medical Services of the Armed Forces 2010 with specific reference to the verdict of the Hon'ble Supreme Court in **Dharamvir Singh (Supra)** vide Para 28 thereof to the effect:-

"28. A conjoint reading of various provisions, reproduced above, makes it clear that:

(i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under "Entitlement Rules for Casualty Pensionary Awards, 1982" of Appendix-II (Regulation 173).

(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service. [Rule 5 r/w Rule 14(b)].

(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).

(iv) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service. [Rule 14(c)].

(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. [14(b)].

(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be

deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)]; and

(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 - "Entitlement : General Principles", including paragraph 7,8 and 9 as referred to above.

8. Inter alia, reliance was placed on behalf of the applicant on the observations of the Hon'ble Supreme Court in **Sukhvinder Singh Vs UOI 2014**, SCC 364, wherein, vide Para-9 thereof it has been observed to the effect:-

"We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence. Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined. Thirdly, there appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever a member of the Armed Forces is invalided out of service, it perforce has to be assumed that his disability was found to be above twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension.";

9. The applicant has also placed reliance on the verdict of the Hon'ble Supreme Court in **UOI & Ors. V. Angad Singh**

Titaria (AIR 2015 SC 1898) CA No.11208 to contend to similar effect, that in as much as the applicant was found medically and physically fit at the time of joining the Military Service and he being diagnosed with some disease during the service, that deterioration in his health has to be presumed to have been caused due to service in the light of Rule 5(b) & Rules 4,5,9,14 of the Entitlement Rules for Casualty Pensionary Awards,1982, It is thus submitted on behalf of the applicant to the effect that the expert body of the Medical board simply recording the conclusion that the disability was not attributable to service, without giving reasons as to why the disease was not deemed to be attributable to service, clearly shows lack of proper application of mind by the Medical Board.

10. Inter alia, on behalf of the applicant reliance was also placed on the factum that the appellant **Dharamvir Singh** in Civil Appeal 4949/2013 suffered from Generalised Seizures(Epilepsy), that the respondent Rajbir Singh in **UOI & Ors.Vs. Rajbir Singh** in Civil Appeal No. 2904/2011, suffered from Generalised Seizures, and

- that in OA 652/2021 in **Ex Hav Navin Kumar** suffered from Non Organic Psychosis decided on 18.02.2022;

- that in OA 638/2020 in **Ex LAC Amit Kr** suffered from Depressive Episode decided on 638/2020;
- in OA 248/2021 in **Ex Sep NB Singh** suffered from Bipolar Effective Disorder decided on 07.10.2021;
- in OA 1102/2019 in **Ex Nk Anand Ballabh** suffered from Generalised Tonic Disorder decided on 03.05.2023;
- in OA 127/2021 in **Ex Sukhjeet Singh** suffered from Seizure Disorder decided on 19.07.202;
- in OA 3204/2019 in **Ex Sep Raj Singh** suffered from Adjustment disorder decided on 07.12.2022;
- in OA 271/2022 in **Ex Hav Vikas** suffered from Seizure Diosroder decided on 13.10.2022;
- in OA 961/2020 in **Ex Hav K K Udhav** suffered from Seizure Diosroder decided on 21.07.2023 and that all of these cases were also taken up in Civil Appeal in 2904/2011 in **Rajbir Singh (Supra)**, and it has been submitted on behalf of the applicant in each of the said cases, the disability element of pension was granted to the Armed Forces Personnel.

11. During the course of the submissions made on behalf of the applicant, reliance was placed on the order dated 21.07.2023 of the AFT, PB, New Delhi in the case of **Hav**

Kedar Kirankumar Udhav (Retd) Vs. UOI & Ors. to submit to the effect that in similar circumstances where the applicant thereof, had suffered with the disability of 'CNS (INV) Seizure Disorder' @20% for life which had been opined by the RMB to be '*Neither Attributable to nor Aggravated*' by the service and the applicant thereof had been discharged on low medical category on fulfilling the conditions of his enrolment, it was observed vide para-2 thereof as under:-

"As regards, the submissions on behalf of the respondents, the disability had its onset on 08.12.2008 at 19 AD Regt, Ambala Cantt(HR), a peace station, in terms of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces 2010, it is apparent that whether the onset of the disability takes place in a CIOPS /HAA area or in a peace area, the same does not detract from the onset of the disability having arisen during military service. In the facts and circumstances of the instant case, the disability of the applicant is held to be both attributable and aggravated by military service. The prayer made by the applicant seeking discharge from service in the instant case does not absolve the respondents from the onus as laid down to them to explain under what circumstance, the disability of the applicant had its onset. With nothing thus on the record to indicate that the applicant suffered from any disease prior to enrolment, it has to be held that the disability of the applicant i.e. "CNS(INV) SEIZURE DISORDER" in the instant case, was caused due to the stress and strain of military service."

12. Reliance was placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in **UOI & Ors. Vs Rajbir** in Civil Appeal No. 2904/2011, decided on 13.02.2015, to submit to the effect that vide the said verdict

in C.A 7672/2019 *Ex Cfn Narsingh Yadav* was also decided, in which case the applicant thereof who suffered from the disability of Generalized Seizure was granted the disability element of pension.

13. The applicant submits that in the instant case, he suffered from the disability of Seizure Disorder due to stress of service whilst he was in service in the Indian Army and the said disability was due to stress and strain during service and that he thus held entitled for the grant of the disability element of pension.

14. Per contra, the respondents submitted that though routine medical examination of all the personnel is carried out at the time of entry/induction however, there are possibilities that the diseases which are congenital, hereditary, degenerative and constitutional in nature may not get detected during the routine medical examination. It is further submitted by the respondents that the onset of the disease during service does not entail that it has to be treated as attributable to Military service unless it is clearly established that the course of the disease was adversely affected due to factors related to conditions of military service.

15. The respondents submitted that the applicant's case does not qualify to be considered under provisions of Regulation 173 of Pension Regulations for the Army 1961 (Part-I), because despite him being in Low Medical Category with effect from Jan 1988, he was allowed to continue in the Army till completion of his term of engagement and that the said provision only pertains to those personnel's whose disability becomes unsuitable to be employed by the Army in any of the duties. The respondents also submit that in as much as there was no causal connection between the applicant's disability and military service, he is not entitled to the grant of any pension for the disability 'Generalised Seizures'. The respondents also submitted that the disability in the instant case here be not considered as aggravated to military service as the RMB had assessed the net disability qualifying for pension as 'Nil' in the case of the applicant, in as much as the disability was considered '*Neither Attributable to nor Aggravated*' by service.

16. Reliance was also placed on behalf of the respondent on the verdict of Hon'ble Supreme Court in Civil Appeal No. 7672/2019 in the case of ***Ex Cfn Narsingh Yadav Vs UOI & Ors.*** wherein the prayer made for grant of the disability

element of pension for the disability of Schizophrenia was not granted, it having been observed to the effect:-

“Relapsing forms of mental orders which have intervals of normality and Epilepsy are undetectable disease while carrying out physical examination on enrolment, unless adequate history is given at the time by the members.”

The Court further held that:-

“Though, the opinion of the Medical Board is subject to judicial review, the Courts are not possessed of expertise to dispute such a report unless there is strong medical evidence on record to dispute the opinion of the Medical Board which may warrant the constitution of the Review Medical Board”.

ANALYSIS

17. On a consideration of the submissions made on behalf of the either side, it has to be observed that as laid down by the Hon'ble Supreme Court in ***Ex Cfn Narsingh Yadav*** vide observations in Para 18 thereof, each case has to be examined whether the duties assigned to the individual may have led to stress and strain leading to the disability. The applicant in the case of ***Ex Cfn Narsingh Yadav*** had enrolled in the Indian Army on **02.12.2003** and was discharged from service on **08.05.2007**, when the invaliding board had found him to be suffering from Schizophrenia which disability has been assessed to be @20% for a period

of 5 years and it had been observed vide Para-19 of the Hon'ble Supreme Court to the effect:

“The appellant was a young boy of 18 years at the time of enrolment and had been boarded within 3½ years of his service. Even if he was suffering from any mental disorder prior to enrolment, the same could not be detected as there were intervals of normality. The appellant was posted in peace station as a Vehicle Mechanic. Neither the nature of job nor the place of posting was such which could have caused stress and strain leading to disability as attributed to or aggravated by military service.”

18. The facts of the instant case however are not in *pari materia* with the facts of the case of ***Ex Cfn Narsingh Yadav (Supra)***. This is so in as much as the applicant herewith had been enrolled in the Indian Army on **25.11.1983** and was discharged from service in low medical Category on **31.03.2000** after **expiry of engagement of period of more than 16 years of service**. The nature of duties performed by the applicant, and the postings of the applicant received vide letter No. P/14253255F/LC/T-3/2256 dated 10.11.2025:-

Ser No	Unit	From	To	Place	Field/Peace
3.1	4 Inf Div Sig Regt (AREN)	03 Mar 1985	24 Sep 1988	Prayagraj (UP)	Peace
3.2	2 Electronic Warfare Brigade	25 Sep 1988	01 Mar 1994	Delhi Cantt	Peace

3.2	33 Corps OP Sing Regt	02 Mar 1994	03 Aug 1996	Sukhna (WB)	Mod Filed
3.4	4 Air Fm Sig Regt	04 Aug 1996	10 Sep 1997	Allahabad (UP)	Peace
3.5	29 Inf Div Sig Regt	11 Sep 1997	31 Mar 2000	Mamun Cantt (Punjab)	Peace

19. The Seizure disorder had its onset in Jan 1988 at Jafna, Srilanka and the applicant was treated from 10.01.1988 to 08.02.1988. The disability of the applicant detected in Jan 1988 continued during his release as per RMB dated 21.12.1999. The applicant was placed in low medical category CEE(P) PMT w.e.f. 10.07.1989 for 'Generalised Seizures'.

20. As per Para - 35 (a) & 36 of the Chapter-VI Clinical Aspects of Certain diseases of the Guide to Medical Officers (Military Pension) 1980, it is provided as under:-

"Mental (Psychiatric) Disorders

35. The psychiatric disorders are generally classified as neurosis, psychoneurosis, psychosis and personality disorders. This classification does not divide the diseases into watertight compartments. There is at times even difficulty in distinguishing the neurotic from the psychotic as transitions occur so that a patient reacts neurotically at one time and may react psychotically at another.

Entitlement:

(a) Claims usually arise in the following circumstances -

(i) mental disorder arising in closetime relationship to physical injury/ illness.

(ii) mental disorder arising in closetime relationship to operation/ medical treatment.

(iii) Prolonged overseas or field service or service afloat.

(iv) Participation in battle, warlike frontline operations bombing, siege, jungle warfare training or Prisoner-of-war state.

(v) intensive military training with troops.

(vi) service in high altitude areas.

(vii) strenuous operational duties in aid of civil power where life is in danger all the time.

(viii) long patrolling duties in mountainous and hazardous areas.

(ix) high altitude flying/flying over hazardous area/ territory, particularly if the plane is non-pressurized.

This list is not exhaustive and each case should be judged on its own merits. In every case, a careful consideration should be given as to whether the individual in question would, or would not, have been subjected to similar stress if he had not joined the service.

Epilepsy

36. This is a disease which may develop at any age, but especially within the age limits of puberty and adolescence, without obvious discoverable cause.

The person who develop epilepsy while serving in the Forces are commonly adolescents with or without an ascertainable family history of the disease. The onset of epilepsy after adolescence does not exclude the constitutional idiopathic type of epilepsy, but the possibility of an organic lesion of the brain demands investigations.

Epilepsy is not ordinarily aggravated by service conditions, but special consideration will have to be

given to particular cases where evidence exists that the persons while on active service were subjected shortly before the onset of the disability to sudden exceptional or unusually severe physical strain or mental shock connected with service factors, as given in para 35 (a).

Epilepsy which develops in definite relation to head injury (traumatic epilepsy) of service origin should be regarded as attributable to service factors. Those cases which follow damage to the brain due to disease will require special consideration.

A man might be suffering from epilepsy for a considerable period without the fact being recognized. For working purposes a period of three months would be a reasonable test of whether or not the manifestation of the disease was due to a particular incident of stress and / or strain. In addition, consideration may be given to an individual case where the period lasted as long as six months, if there were some evidence serving to bridge the gap.”

[emphasis supplied]

21. It is apparent that the onset of the disability was in Jan 1988 when the applicant was posted with 4 Inf Div Sig Regt (AREN) from 03.03.1985 to 24.09.1988. Whilst the applicant was posted in 4 Inf Div Sig Regt (AREN), however, he was in Sri Lanka under the Operation 'PAWAN' as a part of Indian Peace Keeping Force (IPKF). The applicant was in a war like situation under operation 'PAWAN' (IPKF) operation in Sri Lanka and hence, the disability of the applicant will

be considered aggravated as the applicant would have been subjected to sudden exceptional or unusually severe physical strain or mental shock connected with service factors as the applicant was posted in Sri Lanka and part of operation 'PAWAN' which was a very intense battle like situation between the peace keeping forces of India and the LTTE militants of Sri Lanka and, hence, the disability of the applicant will be considered as aggravated by Military Service as per Para 35 & 36 of Chapter VI of GMO 1980 as reproduced hereinabove.

22. Furthermore, with regard to the disability of the applicant, which was considered to be of permanent nature, but assessed for a particular period i.e. for two years, it can be made out from 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 upholding 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]

It is pertinent to mention here that the Tribunal has followed the aforesaid judgment of the Hon'ble Apex Court in numerous cases where the duration of disablement was for a particular period and thus was considered to be for life.

CONCLUSION

23. The OA is thus allowed. The applicant is thus held entitled to the grant of disability pension for life qua the disability of Generalised Seizures @20% for life which in terms of the verdict of the Hon'ble Supreme Court in ***UOI & Ors. vs Ramavtar*** in Civil Appeal No. 418/2012 is rounded off to 50% for life, from the date of discharge.

24. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant

within a period of three months from the date of receipt of copy of this order and the amount of arrears shall be paid by the respondents, failing which the applicant will be entitled for interest @6% p.a. from the date of receipt of copy of the order by the respondents.

25. There is no order as to costs.

Pronounced in the open Court on the 17 day of March, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/AK/