

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

A.

OA 772/2019 WITH MA 4722/2023

Maj Sasanka Shekhar Swain (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. SS Pandey, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
02.04.2026

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)

(RASIKA CHAUBE)
MEMBER (A)

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ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under:

“(a) Call for the records including the Release Medical Board Proceedings and all other subsequent orders/directions based on which the Respondents have not granted disability pension to the Applicant consisting of the disability element as well as service element of such disability pension w.e.f 16.11.2001.

(b) Direct the Respondents to pay the Applicant the disability pension consisting of service and disability element @ 50% by extending the benefit of broad banding to the Applicant along with the arrears with interest @ 12% per annum from the date of his release.

(c) Call for the records based on which the Respondents have not revised his pension in the scale of Lt Col (TS) pension w.e.f 16.01.2001 in the revised scale of Lt Col on the basis of last pay drawn as notionally fixed in such rank with increments for the year 1998, 1999 and 2000 without change of rank pay of Major as per the circular of 2013.

(d) Direct the Respondents to revise the pension of the Applicant and grant him arrears in terms of the circular dated 2013 w.e.f 15.12.1997 in the rank of Lt Col with rank pay of Major on difference of service pension consequent to grant of pension to him as Lt Col along with interest @ 12% p.a.

(e) Issue such other order/ direction as may be deemed appropriate in the facts and circumstances of the case.”

BRIEF FACTS OF THE CASE

2. The applicant, IC-34237K Maj Sasanka Shekhar Swain (Retd), was commissioned into the Army Ordnance Corps on December 15, 1976. Following a General Court Martial (GCM), he was dismissed from service on January 16, 2001 (AN). At the time of his dismissal, the individual was in a low medical category; however, a statutory Release Medical Board was not conducted at that time. This dismissal was subsequently challenged in O.A. (Appeal) No. 34/2011 before the Armed Forces Tribunal, Regional Bench, Chennai. Vide its order dated November 30, 2011, the Hon'ble Tribunal partly allowed the appeal and modified the sentence of dismissal to that of "discharge" and holding the individual entitled to all

consequential monetary and retirement benefits as per the Rules.

3. Pursuant to the aforementioned judicial directions, a delayed Release Medical Board (RMB) was convened at Base Hospital, Delhi Cantt, on 10.03.2014 to assess the Applicant's medical fitness. As per the applicant the board of medical experts, upon clinical evaluation, diagnosed the Applicant with multiple disabilities, including Chronic Epididymo orchitis with Funiculitis (RT) and PIVD L4-L5 (Optd). The RMB initially assessed the composite disability at 40% for life and explicitly categorized the conditions as "Attributable to Military Service," thereby conceding the service-connection requisite for the grant of a disability pension.

4. The gravamen of the present dispute arises from the subsequent administrative handling of these medical findings. The Applicant alleges a serious procedural impropriety, asserting that the original records of the RMB were surreptitiously altered or interpolated by the Administrative Authorities to reduce the assessment to 15-19% for life. This downward revision, which resulted in the denial of the disability pension on 21.01.2016, was purportedly executed without a

fresh physical examination and in violation of established medical protocols and the principles of natural justice.

5. Conversely, the Respondents maintain that the final disability assessment was concluded in accordance with the prevailing Pension Regulations and the Guide to Medical Officers. It is the Respondents' position that the higher medical echelons possess the competence to review and revise the findings of an RMB based on a technical scrutiny of the medical evidence, and that the reduction to 15–19% was a legitimate exercise of regulatory oversight, rendering the disability “non-pensionable.”

6. Further, a substantial controversy exists regarding the rank at which the Applicant's pensionary benefits have been fixed. The Applicant claims entitlement to the substantive rank and pension of Lt Col (TS) based on his 24 years of service and the Ministry of Defence circular dated 02.01.2013. The Respondents, however, have processed his benefits in the rank of Major, asserting that the Applicant did not meet the specific eligibility criteria for the higher rank.

7. During the pendency of these proceedings, the Applicant has been diagnosed with a life-threatening malignancy

(Cancer), which necessitated the filing of an urgent application for an expedited hearing. The core issues for determination before this Hon'ble Tribunal remain whether the Administrative Authority could legally vary the specific clinical findings of a duly constituted Medical Board and whether the Applicant is entitled to the revision of his rank and pensionary benefits in light of his total service tenure.

SUBMISSIONS ON BEHALF OF THE APPLICANT

8. It is the case of the applicant submitted that the Applicant was granted a permanent commission in the Army Ordnance Corps on December 15, 1976, and rendered more than 24 years of dedicated service. The learned counsel submitted that while the applicant was dismissed from service on January 16, 2001, following a General Court Martial, the Hon'ble AFT (Regional Bench) Chennai subsequently set aside the serious convictions and modified the sentence to "discharge", directing that he be granted all consequential monetary benefits as per the rules.

9. It is submitted by the applicant that the applicant completed 21 years of commissioned service on December 15, 1997, and was thus fully qualified for the rank and pay of Lieutenant Colonel (Time Scale) under the provisions of

Circular No. 14 dated January 2, 2013. The learned counsel drew the attention of this Tribunal to the fact that the respondents, in their counter-affidavit at Para 5 (M to P), have formally conceded that the applicant is entitled to the pay of Lt Col (TS) effective December 15, 1997, and the service pension of Lt Col (TS) effective January 16, 2001.

10. Placing reliance on the judgment of the Hon'ble Supreme Court in ***Dharamvir Singh vs. Union of India (2013) 7 SCC 316***, submitted by the applicant that there is a presumption of sound health at the time of commissioning, and any disability arising during service must be treated as attributable to military service. The learned counsel further submitted that, as held in ***Union of India vs. Rajbir Singh [(2013) 12 SCC 264]***, the provision for disability pension is a beneficial provision that must be interpreted liberally to benefit those sent home with a disability.

11. It is contended by applicant that the Release Medical Board (RMB) held on March 10, 2014, originally found the applicant suffering from four disabilities - (i) Chronic Epididymo-Orchitis with Funiculitis (RT); (ii) PIVD L4-L5 (Operated); (iii) Sensorineural Hearing Loss; and (iv) Senile Cataract with

Retinal Detachment (Operated) with a composite assessment of 40% for life. The learned counsel also drew the attention of this Tribunal to Annexure A-8, a letter from PCDA Allahabad dated June 2, 2015, which explicitly confirmed that the disability was assessed at 40% for life in the March 2014 proceedings.

12. On the issue of manipulation in the RMB, it is submitted by the applicant that the respondents maliciously replaced Pages 89 to 92 (Part IV and V) of the original RMB with new pages signed by different officers in 2015 who never physically examined the applicant, thereby reducing his assessment to 15-19% solely to deny him a disability pension. Placing reliance on the judgment of this Hon'ble Tribunal in **Rear Admiral Satish Bajaj vs. Union of India (OA 1823 of 2018)**, the learned counsel submitted that the Tribunal must take a "very serious note" of inconsistent medical records and signature mismatches, granting the applicant the benefit of doubt regarding his original 40% assessment.

13. Drawing our attention to the case of **Ex Capt Deepak SG vs Union of India OA 190/2015**, it is submitted that for an officer whose service is cut short, a disability assessment of less

than 50% must be broad-banded to 50% without any lower qualifying cap.

14. Furthermore it is submitted that the applicant is a 70-year-old senior citizen currently suffering from cancer and caring for a handicapped son. The learned counsel further submitted that despite the respondents' concession regarding the rank of Lt Col in 2019, the benefits have not been extended to date, and thus prayed for the immediate implementation of conceded rank benefits and the grant of a 50% broad-banded disability pension.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

15. Per contra, it is submitted by the respondents that the applicant, who was commissioned in the Indian Army on December 15, 1976, was dismissed from service on January 16, 2001, following a General Court Martial. The learned counsel submitted that while the Hon'ble AFT (Regional Bench) Chennai subsequently modified this sentence to "discharge," this change was a matter of administrative leniency and did not automatically entitle the applicant to a disability pension.

16. It was further submitted that since the Release Medical Board (RMB) finalized on March 10, 2014, assessed the

applicant's singular disability Chronic Epididymo Orchitis with Funiculitis (Rt) at 15-19% for life, the applicant is legally ineligible for a disability pension. The learned counsel submitted that the applicant fails to fulfill the mandatory twin eligibility conditions laid down in Regulation 37 of Pension Regulation for the Army 2008, which requires a disability assessment of at least 20%.

17. The respondents explicitly denied any allegations regarding the tampering or malicious replacement of medical records. It was further submitted that the RMB is an expert body whose findings are recommendatory and subject to approval by the Competent Medical Authorities; therefore, the finalized assessment of 15-19% must be treated as final and authoritative.

18. The respondents relied on the judgment of the Hon'ble Supreme Court in ***Bachchan Prasad Vs Union of India & Ors. (CA No. 2259 of 2012)*** to establish that a claimant has no legal right to a disability element of pension if the disability is assessed at less than twenty percent. The learned counsel for the respondents further relied on the judgments in ***Union of India & Ors Vs Rajwanti and Ex Capt Srinivasan***

Narayanan (OA No 90 of 2016) to argue that the applicant's petition is liable to be dismissed on the grounds of delay and laches. The learned counsel submitted that the applicant approached this Hon'ble Tribunal after a significant and unexplained gap of approximately six years from the date of the AFT Chennai judgment.

19. Regarding the applicant's rank, the learned counsel for the respondents submitted that the Respondents have already conceded in their counter-affidavit that the applicant is entitled to the pay of Lieutenant Colonel (Time Scale) effective December 15, 1997, and the service pension of Lt Col (TS) effective January 16, 2001. However, the respondents maintained that the applicant is not entitled to interest on arrears, as his dismissal was commuted to discharge as a matter of grace and he approached the legal forum belatedly.

ANALYSIS

20. The Applicant, through this O.A., seeks the grant of a disability pension at a broad-banded rate of 50% for life, predicated on the assertion that his principal disabilities were originally assessed at a composite rate of 40% during the Release Medical Board (RMB) held on March 10, 2014.

Additionally, he seeks the restoration and revision of his service pension to the rank of Lieutenant Colonel (Time Scale), along with all applicable arrears and 12% interest, based on his completion of 21 years of commissioned service as of December 15, 1997, as per the beneficial provisions of Circular No. 14 dated January 2, 2013.

21. As regards the restoration of revision of his service pension, the adjudication of the applicant's substantive rank for the purposes of pay and pension stands effectively concluded by the judicial mandate of the Armed Forces Tribunal, Regional Bench, Chennai, in O.A. No. 34/2011 vide its Order dated November 30, 2011. The AFT Chennai while adjudicating the claim of the Applicant modified the applicant's sentence of dismissal to that of "discharge" and explicitly holding him entitled to "all monetary benefits as per Rules". In categorical adherence to this mandate, the Respondents formally conceded in their Counter-Affidavit (Para 5 M to P) that the applicant is entitled to the pay of Lieutenant Colonel (TS) effective from December 15, 1997, and the service pension of the same rank effective from January 16, 2001, in terms of Circular No. 14 dated January 2, 2013. Despite the issuance of

a mandatory directive by this Tribunal on August 20, 2025, to release these benefits within four weeks, the Respondents sought to resile from their formal submission by introducing inconsistent records via M.A. 4722/2023, wherein they attempted to introduce contradictory averments claiming the applicant's last held rank only of substantive Major which is legally unsustainable. Rather, the persistent failure to implement these admitted entitlements for over five years constitutes a wilful default and a denial of mandatory entitlements.

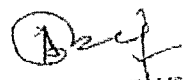
22. Under the legal framework established by the Hon'ble Supreme Court in ***Dharamvir Singh vs. Union of India*** (2013) 7 SCC 316, any disability sustained during military service is presumed to be attributable to or aggravated by service unless the contrary is proved. With regard to the applicant's prayer for the grant of Disability Pension (DP) and the broad-banding of his assessment, this Tribunal observes a fatal discrepancy between the records produced by the Respondents and the authentic findings of the Release Medical Board (RMB) held on March 10, 2014. It is observed that Page 5 of the Original RMB proceedings in respect of IC-34237 Maj


Sasanka Shekhar Swain (Retd), submitted by the Respondents on December 4, 2025, in compliance with the order dated May 21, 2025, explicitly records only one disability—namely, (i) Chronic Epididymo-Orchitis with Funiculitis (RT)—as being attributable to service and assessed at a non-pensionable 15-19% for life. However, Page 5 of the RMB proceedings, in accordance with the PCDA Allahabad letter No. G1/M/59462 dated June 2, 2015 (Annexure A-8) submitted by the Applicant, clearly establishes that the applicant suffered from four distinct disabilities. Specifically, these authentic records confirm that Disability (ii) [PIVD L4-L5 (Operated)] was specifically found to be Aggravated and assessed @ 30% for life. While Disabilities (i) [Chronic Epididymo-Orchitis with Funiculitis (RT)], (iii) [Sensorineural Hearing Loss], and (iv) [Senile Cataract with Retinal Detachment (LE)] were held as NANA (Neither Attributable Nor Aggravated), contributing to a composite assessment @ 60% and a final net assessment @ 40% for life. The Respondents have failed to provide any medical rebuttal for this original assessment, creating an irrebuttable presumption that the 40% composite assessment existed and was subsequently suppressed. Accordingly, we hold that the

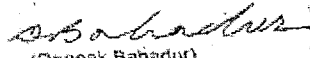
applicant is entitled to the original assessment of 40% for life as officially recognized by the PCDA (P) Allahabad. The conflicting two versions of the RMB are reproduced below:

CONFIDENTIAL

2. Did the disability exist before entering service (Y / N)		No		
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?		NA		
4. In case of disability awarded aggravation, whether the effects such as aggravation still persist? If yes, whether the effects of aggravation will persist for a material period.		NA		
5. (a) Was the disability attributed to the individuals own negligence or misconduct? If yes, in what way?		No		
(b) If not attributable, was it aggravated by negligence or misconduct? If so, in what way and to what percentage to the total disablement?		No		
(c) Has the individual refused to undergo operation / treatment? If so, individual's reasons will be recorded		No		
Note In case of refusal of operation / treatment a certificate from the individual will be attached.				
(d) Has the effects refusal been explained to and understood by him /her, viz a deduction in or the entire withholding of any disability pension to which he / she might otherwise be entitled.		NA		
(e) Does the medical board consider it probable that the operation / treatment would have cured the disability or reduced its percentage?		NA		
(f) If the replies (e) is in affirmative, what is the probable percentage to which the disablement could be reduced by operation / treatment?		NA		
(g) Does the Medical Board consider indls refusal to submit to operation/treatment reasonable? Give reasons in support of the opinion specifying the operation / treatment recommended.		NA		
6. What is present degree of disablement as compared with a healthy person of the same age and sex? (Percentage will be expressed as Nil or as follows)				
1.5 %, 6-10%, 11-14 %, 15-19% and thereafter in multiples of ten from 20 % to 100 %.				
Disabilities (as numbered in Para 1 Part IV)	Percentage of disabilities with duration	Composite assessment for all disabilities with duration (Max 100) % with duration	Disability qualifying for disability pension with duration	Net assessment qualifying for disability pension (Max 100 %) with duration
1	2	3	4	5
CHRONIC EPIDIDYMO ORCHITIS WITH FUNICULITIS (RT)	15-19 % for life	15-19 % for life	15-19 % for life	15-19 % for life


ADITYA BHARDWAJ
 CAPT. MB / MO
 AMB


Lakshay Pratap Singh
 Captain
 AMB


(Deepak Bahadur)
 Col
 President Medical Board
 Base Hospital Delhi Cantt

CONFIDENTIAL

(Pg 5 of Original RMB proceedings in respect of IC-34237 MAJ SASANKA SHEKHAR SWAIN (RETD) submitted by Respondents on 04.12.2025 in compliance of order dated 21.05.2025)



CONFIDENTIAL

5

2. Did the disability exist before entering service (Y/N) : No for all dis
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? : NA for all dis
4. In case of disability awarded aggravation, whether the effects such aggravation still persist? If yes, whether the effects of aggravation will persist for a material period. : Yes for life dis (ii) & NA for dis (i), (iii) & (iv)
5. (a) Was the disability attributed to the individual's own negligence or misconduct? If yes, in what way? : NO for all dis
- (b) If not attributable, was it aggravated by negligence or misconduct? If so, in what way and to what percentage to the total disablement? : NO for all dis
- (c) Has the individual refused to undergo operation / treatment? If so, individual's reasons will be recorded. : NO for all dis
- Note: In case of refusal of operation / treatment a certificate from the individual will be attached.
- (d) Has the effects refusal been explained to and understood by him / her, viz a deduction in or the entire withholding of any disability pension to which he / she might otherwise be entitled. : NA for all dis
- (e) Does the medical board consider it probable that the operation / treatment would have cured the disability or reduced its percentage? : NA for all dis
- (f) If the replies (e) is in affirmative, what is the probable percentage to which the disablement could be reduced by operation / treatment? : NA for all dis
- (g) Does the Medical Board consider indiv's refusal to submit to operation / treatment reasonable? Give reasons in support of the opinion specifying the operation / treatment recommended. : NA for all dis

6. What is present degree of disablement as compared with a healthy person of the same age and sex? (Percentage will be expressed as Nil or as follows)
1.5 %, 6-10%, 11-14 %, 15-19% and thereafter in multiples of ten from 20 % to 100 %.

Disabilities (as numbered in Para 1 Part IV)	Percentage of disabilities with duration	Composite assessment for all disabilities with duration (Max 100) % with duration	Disability qualifying for disability pension with duration	Net assessment qualifying for disability pension (Max 100 %) with duration
(i) CHRONIC EPIDIDYMO ORCHITIS WITH FUNICULITIS (RT)	15-19% for life	50% for life	15-19% for life	40% for life
(ii) PIVD L4-L5 (OPTD)	30% for life		30% for life	
(iii) SENSORINEURAL HEARING LOSS BILATERAL	15-19% for life		Nil for life	
(iv) SENILE CATARACT (BE) OPTD WITH RHEG RETINAL DETACHMENT (LE) OPTD	20% for life		Nil for life	

Gaurav Tyagi MA, I AMC
 Col. Gaurav Tyagi President Medical Board Base Hospital Delhi Cantt

(Pg 5 of RMB proceedings as per PCDA Allahabad letter No. G1/M/59462 dated June 2, 2015 (Annexure A-8) submitted by Applicant)

23. The contention regarding the material falsification and physical tampering of medical records is substantively corroborated by 'prima facie anomalies' identified in the original Release Medical Board (RMB) proceedings produced on the direction of this Tribunal. A critical examination of the original records reveals that while the RMB was conducted on March 10, 2014, originally assessing the applicant's composite disability at 40% for life, the assessment pages subsequently relied upon by the respondents exhibit a stark and unexplained 17-month chronological hiatus. These pages appear only to have been 'Approved' on August 17, 2015, and 'Confirmed' on August 20, 2015, with a significantly reduced assessment of 15-19%. This arbitrary reduction, performed without a mandatory physical re-examination of the applicant and in direct contradiction to the original 40% assessment officially acknowledged in the PCDA (P) Allahabad letter dated June 2, 2015, creates an irrebuttable presumption of record manipulation, rendering the subsequent version of the medical board a legal nullity.

24. Most egregiously, the physical records bear the undeniable evidence of visible interpolation, specifically the malicious use

of corrective fluid (whitener) to obliterate three of the applicant's original disabilities namely (ii) PIVD L4-L5 (Operated), (iii) Bilateral Sensorineural Hearing Loss, and (iv) Senile Cataract (Both Eyes) as well as the signature of concerting officer. This tampering is clearly discernible to the naked eye on close scrutiny, leading to the inescapable conclusion that the 17-month hiatus was utilized to facilitate an *ex post facto* fabrication of records to deny the applicant his pensionable entitlements. The existence of the original 40% assessment, prior to this tampering, is definitively established by Annexure A-8 (PCDA Allahabad letter No. G1/M/59462 dated June 2, 2015), which officially recognized that the original March 10, 2014 proceedings had assessed the applicant's disability at 40% for life. Accordingly, this Tribunal finds the Respondents' version of the medical board to be vitiated and a product of material falsification.

25. Furthermore, as explicitly acknowledged in the Respondents' own official departmental communication (OIC Legal Cell letter No. 3546/2784/AFT/LC dated May 31, 2025), a glaring mismatch in the signatures of the President of the Medical Board exists between the earlier and later portions of

the RMB proceedings. A copy of this critical departmental letter was formally transmitted to the O/o the PCDA (P) Allahabad (UP). This discrepancy in signatures, occurring alongside the unauthorized and arbitrary alteration of net assessment of disability percentages from 40% for life to 15-19% during an unexplained 17-month chronological hiatus, creates an irrebuttable presumption of record tampering.

26. The nature of the disabilities suppressed by the respondents is squarely covered by settled law and the medical evidence originally recorded. This Tribunal finds that the condition of PIVD L4-L5 (Operated) is a recognized service-related disability. Following the principle established in ***Ex U/NVK (ME) Pravindera Sharma vs. Union of India (2024 SCC OnLine Del 8542)***, such a condition is held to be attributable to, or aggravated by, the rigors of service, and the denial of benefits for such a permanent condition constitutes a "continuing wrong."

27. Crucially, the existence of all four disabilities Chronic Epididymo-Orchitis (RT), PIVD L4-L5 (Operated), SNHL, and Retinal Detachment (Operated) is substantively corroborated by Annexure A-8 (PCDA Allahabad letter No. G1/M/59462

dated June 2, 2015). This official correspondence from the pension-sanctioning authority explicitly confirms that the original RMB had assessed these conditions at a composite rate of 40% for life. The respondents' subsequent attempt to permit only the entry of Chronic Epididymo-Orchitis with Funiculitis (RT) to remain visible, while arbitrarily reducing its individual Net Assessment to 15-19%, is a strategic clinical misrepresentation aimed specifically at falling below the pensionable threshold.

CONCLUSION

28. Keeping in view the malicious conduct of the Respondents with regards to RMB and the evidentiary material available on record, we are of the opinion that the applicant is entitled to the disability element of pension @40% for life, as originally assessed by the Release Medical Board on 10.03.2014 and corroborated by the PCDA (P) Allahabad letter dated 02.06.2015, which shall stand rounded off to 50% for life with effect from the date of his discharge, i.e., 16.01.2001, in terms of the judgment of the Hon'ble Supreme Court in **Union of India vs. Ram Avtar (Civil Appeal No. 418/2012)**; furthermore, the respondents are directed to-

- i. Implement the admitted revision of the applicant's service pension to the rank of Lieutenant Colonel (Time Scale) with effect from January 16, 2001
- ii. Release all accumulated arrears within six weeks with interest @12% per annum (enhanced to 15% in case of default)
- iii. Direct the DGAFMS to initiate a formal Inquiry to fix responsibility for the visible interpolation and signature discrepancies found in the medical proceedings and intimate this Tribunal of its findings via a detailed report within three months.

29. Hence the OA 772/2019 is **ALLOWED**.

30. Consequently, the connected and pending miscellaneous application(s), if any, also stands disposed of.

Pronounced in the open Court on this 2nd day of April, 2026.

[RASIKA CHAUBE]
MEMBER (A)

[JUSTICE NANDITA DUBEY]
MEMBER (J)

/MF/