

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

OA 876/2023

WITH

MA 1369/2023

Surg Lt Rajesh Nath Zalpuri (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Manoj Kr. Gupta, Advocate  
For Respondents : Mr. Anil Gautam, Sr. CGSC

Dated: 23<sup>rd</sup> February, 2026

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

By way of this OA filed under Section 14 of the Armed Forces Tribunal Act, 2007, along with MA 1369/2023 under Section 22 of the Armed Forces Tribunal Act, 2007 seeking condonation of delay over 12000 days, the applicant seeks the following reliefs:

- (i) *To direct the respondents to grant disability pension at 20% for the ID Schizophrenia, already declared as aggravated by military service by the RSMB, with the benefit of rounding off to 50% in terms of Annexures A5, A6 and A7;*
- (ii) *To direct the respondents to pay arrears of disability pension with interest at 8% per*

*annum from the date of retirement and to set aside Annexure A1; and*

*(iii) To pass such further order(s) or direction(s) as this Tribunal may deem fit and proper in accordance with law.*

2. The facts, as pleaded by the applicant, are that he was enrolled in the Indian Navy on 22<sup>nd</sup> July, 1983 in a medically fit condition. After successfully completing his training, he was posted to various stations in peace as well as field areas. He was released from service on 22<sup>nd</sup> July, 1988 on completion of his initial engagement under Short Service Commission (SSC), having been found to be suffering from Schizophrenia on 2<sup>nd</sup> March, 1985, which was assessed at 20% and conceded as aggravated by military service. Upon discharge from service, he was sanctioned disability pension for a period of two years up to 13<sup>th</sup> July, 1990. It is contended that at the time of discharge, no Release Medical Board proceedings were conducted and the applicant was only informed through a sanction letter regarding the grant of disability pension. According to him, the disease developed due to stress and strain while serving in sea areas under adverse conditions and unavoidable service pressure. He submits that owing to a shortage of medical officers, his responsibilities increased

considerably, which placed him under severe stress and ultimately resulted in the onset of the disease. He asserts that he was required to work without leave, including on holidays, Saturdays and Sundays, thereby further aggravating his condition. The applicant contends that the respondents failed to appreciate the causal connection between his disability and military service, despite having initially granted disability pension for a period of two years. There was neither a re-survey nor any communication from the respondents thereafter. Seeking conduct of a Re-survey Medical Board (RSMB) for continuation of disability pension, the applicant, as contended made representations dated 18<sup>th</sup> October, 2019, 31<sup>st</sup> October, 2020 and 20<sup>th</sup> November, 2020. In response to the Naval Headquarters letter dated 7<sup>th</sup> December, 2020, seeking clarifications regarding the delay and responding to correspondence concerning the RSMB, the applicant submits that he came to know of such correspondence for the first time in 1990 and due to shifting of his family from Delhi to Hardoi, he was unable to pursue the matter further. Subsequently, vide letters dated 17<sup>th</sup> June, 2021 and 15<sup>th</sup> July, 2021, he received intimation regarding the RSMB. However, upon examination,

the Competent Authority did not accept that the disease was aggravated by service and rejected his claim for disability element of pension. The First Appeal preferred on 6<sup>th</sup> February, 2023, holding the applicant ineligible for disability pension, despite his disability having earlier been declared as aggravated by military service, was also rejected on 28<sup>th</sup> February, 2023. Aggrieved thereby, the present OA has been filed.

3. Placing reliance upon the judgments of the Hon'ble Supreme Court in *Dharamvir Singh Vs. Union of India and others* ([2013] 7 SCC 316), *Union of India and others Vs. Rajbir Singh* ([2015] 12 SCC 264) and *Cdr Rakesh Pandey Vs. Union of India and others* (C.A No. 5970 of 2019) decided on 28<sup>th</sup> November, 2019 as well as the decisions of the Chandigarh Bench of this Tribunal in *Maj Singh Vs. Union of India and others* (OA No. 507 of 2021 decided on 18<sup>th</sup> May, 2021) and *Gurbhup Singh Vs. Union of India and others* (OA No.3241/2019) decided on 19<sup>th</sup> January, 2022) and on Rules 56 and 9 of the Entitlement Rules for Casualty Pensionary Awards, 1982, learned counsel for the applicant contended that in the absence of any material on record to establish that the applicant was suffering from the disease at the time of

enrolment, a presumption must arise that he was in sound physical and mental condition when he entered service. In terms of the settled legal position, if no note of any pre-existing disease is recorded at the time of enrolment, the burden is on the respondents to rebut the presumption of soundness. Learned counsel further submitted that Rule 9 of the Entitlement Rules, 1982 mandates that a claimant shall not be called upon to prove the conditions of entitlement and shall be given the benefit of reasonable doubt. Therefore, where two views are possible, the one that goes in favour of the claimant must prevail. It was contended that the Hon'ble Supreme Court has consistently held that once a disability is found to have arisen during service and there is no evidence of its pre-existence, the same is to be presumed attributable to or aggravated by service, unless there is evidence to the contrary. It was further urged that at the time of discharge, the applicant's disability had already been assessed at 20% and conceded as aggravated by military service. Having once accepted the causal connection and granted disability pension, the respondents cannot, in the absence of compelling medical evidence showing complete cessation or non-attributability, deny continuation of the disability element.

Learned counsel also contended that Schizophrenia is a psychiatric illness of a chronic and relapsing nature and, therefore, by its very character, is permanent. The learned counsel for the applicant thus contended that in such circumstances and on the strength of the aforesaid judicial precedents and taking into account the permanent nature of the disease and the presumption of attributability/aggravation being in his favour, the applicant is entitled to disability pension for life.

4. Per contra, the respondents have strongly opposed the claim by filing a detailed counter affidavit. It is stated that before his release, a Medical Board held on 14<sup>th</sup> July, 1988 found him to be suffering from Schizophrenia, which was accepted as aggravated by service and assessed at 20% for a period of two years. On that basis, disability pension was sanctioned and paid to him from 22<sup>nd</sup> July, 1988 to 13<sup>th</sup> July, 1990. It is further submitted that upon expiry of the said period, the Base Hospital, Delhi Cantt. attempted to contact the applicant for appearance before a RSMB. However, he did not report. Naval Headquarters, vide letter dated 27<sup>th</sup> September, 1991, called upon him to explain the reasons for non-reporting

and to intimate his convenience for appearance before the RSMB. The applicant did not furnish any reply. The respondents contend that after a lapse of nearly three decades, the applicant, vide representation dated 24<sup>th</sup> November, 2020, sought conduct of a fresh Medical Board for revival of disability pension. He was accordingly asked to explain the inordinate delay of about thirty years in seeking RSMB. In his reply dated 31<sup>st</sup> December, 2020, he stated that he had shifted his residence from Delhi to Uttar Pradesh for employment and had not received any reminder for RSMB except the initial intimation in 1990. However, he did not state that he had ever informed the Naval authorities about change of his address in 1991, though it was incumbent upon him to keep the authorities apprised of his current address. Notwithstanding the substantial delay and the fact that the claim was grossly time-barred, the respondents processed his case after obtaining time-bar sanction from the competent authority. After approval for conduct of RSMB at Delhi Cantt. the applicant was examined by the RSMB at Delhi Cantt. on 3<sup>rd</sup> August, 2021, which assessed his disability at 20% for life. During processing of his case for grant of disability pension, it was found that the old medical records pertaining to

his case had been destroyed on 15<sup>th</sup> July, 2002 in accordance with the prescribed record retention rules. In the absence of contemporaneous medical documents necessary to establish continuity and entitlement and considering the inordinate delay of nearly 30 years in seeking review, the learned counsel for the respondents contended, his claim for grant/revival of disability pension was rejected vide letter dated 28<sup>th</sup> February, 2023.

5. Mr. Anil Gautam, learned Senior Central Government Standing Counsel, appearing for the respondents, contended that there is neither illegality nor irregularity in the impugned order (Annexure A1). It was argued that the applicant failed to pursue his case within the stipulated period and did not respond to communications issued for RSMB as early as in the year 1990. The revival of his claim after nearly three decades, by which time the relevant records had been destroyed in accordance with existing rules, it is difficult for the respondents to verify the continuity and entitlement of the disability. It was further contended that disability pension initially granted for a specified period does not automatically continue in perpetuity and is subject to reassessment through RSMB. Since the applicant failed to avail himself of the opportunity for

reassessment within the prescribed time and did not maintain communication with the authorities regarding his whereabouts, he cannot now seek to shift the burden upon the respondents. Accordingly, the respondents submit that the rejection of the claim is legally sustainable and the OA is liable to be dismissed.

6. Having heard the learned counsel for both parties and upon perusal of the pleadings and documents placed on record.

7. At the outset, it is not in dispute that the applicant was granted disability pension for a period of two years from 22<sup>nd</sup> July, 1988 to 13<sup>th</sup> July, 1990. The grant was clearly time-bound and subject to reassessment through a Re-survey Medical Board (RSMB).

8. The record reveals that upon expiry of the initial period, efforts were made by the authorities to secure the applicant's presence before the RSMB. Naval Headquarters, vide letter dated 27<sup>th</sup> September, 1991, called upon the applicant to explain his non-reporting and to intimate his availability for review. Admittedly, no response was furnished. The applicant now contends that he had shifted his residence. However, there is no material placed on record to show that he informed the

competent authority of his change of address. It is a settled principle that a pensioner is under a obligation to keep the department informed of his current address for official communication. Failure to do so cannot be attributed to administrative lapse.

9. The delay in the present case is not marginal but extraordinary. The applicant approached the authorities for revival of disability pension only in November 2020, after nearly 30 years from the date on which he was required to undergo reassessment. Such prolonged inaction attracts the doctrine of delay and laches. The law does not assist those who sleep over their rights. While pensionary matters may, in appropriate cases, warrant a liberal approach, such leniency cannot extend to condoning a three-decade silence, particularly when statutory and procedural mechanisms for review were available but not availed and also there is no satisfactory answer to condone the delay.

10. The applicant has sought to rely upon the presumption of soundness at the time of enrolment and the benefit of reasonable doubt under the Entitlement Rules, 1982. However, those principles operate in the context of determining initial

attributability or aggravation. In the present case, attributability/ aggravation was already conceded for a limited period and disability pension was accordingly granted. The issue here is not initial entitlement but revival and continuity after the lapse of the sanctioned period and non-compliance with the mandatory reassessment process.

11. So far as the destruction of original medical records on 15<sup>th</sup> July, 2002 in accordance, it is evident that these were destroyed only after the retention period prescribed under the Rules/Policy has expired. Therefore, the respondents cannot be faulted for inability to produce the medical documents relating to the applicant's condition during service or at the time of initial assessment. The prejudice, if any, caused by such non-availability of records is directly attributable to the applicant's prolonged inaction.

12. Though the RSMB conducted in 2021 assessed the disability at 20% for life but in the absence of medical documents pertaining to the original disease profile, the progression and continuity of the applicant's disability having any nexus to service cannot be verified. In service jurisprudence, particularly in disability pension cases,

continuity and causal connection are matters that must be supported by medical evidence. The respondents, in the absence of such records, were justified in declining revival of pension. The contention that once disability was conceded, it must continue for life cannot be accepted as an absolute proposition. Disability pension granted for a specified period is always subject to reassessment. Failure to undergo reassessment modalities within the prescribed time-frame interrupts the chain of entitlement. Revival after decades cannot be claimed as a matter of course, especially when administrative verification has been rendered unworkable. In spite of repeated requests made by the respondents, the applicant failed to appear before the RSMB.

13. There is no doubt that pension is a beneficial provision; however, equitable considerations cannot override statutory discipline and procedural compliance. The extraordinary delay of nearly thirty years, coupled with the lawful destruction of original medical records and the applicant's failure to maintain communication with the authorities, disentitles him to the reliefs sought.

14. In view of the above, we hold that the present OA is barred by gross and unexplained delay and laches; the destruction of original medical records in accordance with the retention policy has caused prejudice to the respondents in verifying the claim; and the impugned order dated 28<sup>th</sup> February, 2023 does not suffer from any illegality, arbitrariness or procedural infirmity warranting interference by this Tribunal.

15. Accordingly, both the OA 876/2023 and MA 1369/2023 are dismissed with no order as to costs.

Pronounced in open Court on this <sup>23<sup>rd</sup></sup> day of February, 2026.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[RASIKA CHAUBE]  
MEMBER (A)

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