

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

OA No. 961/2023 with MA 1512/2023

Sub GVS Ramakrishna (Retd) ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant - Mr. Kritendra Tiwari, Advocate

For Respondents - Mr. Arvind Kumar, Advocate

CORAM :

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA seeking following prayers:

- (a) *Quash and set aside the impugned letters dated 09 Dec 2020 & 14 Jan 2021.*
- (b) *Call for the medical records to adjudicate the disability pension case of the applicant,*
- (c) *Direct respondents to grant disability pension @50% after rounding off from 30% for life to the applicant with effect from 01 Aug 1998 i.e. after the date of discharge from service with interest @12% p.a. till final payment is made.*
- (d) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

2. The applicant was enrolled in the Indian Army in Corps of Signals on 14.05.1970 and discharged from service on 31.07.1998 with 28 years and 70 days of service. The Medical Examination Report AFMSF-18 dated 03.09.1997

held the applicant to be fit to be discharged in low medical category 'BEE(P)'.

3. The disability pension claim of the applicant was rejected vide PCDA (P) Prayagraj letter no. G-3/57/187/3/99 dated 29.06.1999 on the ground that the disability is constitutional in nature and not related to service. Subsequently, applicant preferred a petition dated 29.12.2020 seeking copies of Release Medical Board and other documents, which was replied vide rejection letter no. P/JC-188058M/DP-6/NER dated 09.12.2020 and 14.01.2021 of The Records Signals, to the effect that the claim for disability pension has already been rejected and that the Release Medical Board (RMB), Movement Order and Posting Order are not held in the dossier of the applicant, nor any other medical documents are held with the dossier.

Aggrieved by the aforesaid rejection, applicant has approached this Tribunal.

Submissions on behalf of the Applicant

4. It is submitted by the applicant that he was enrolled as a soldier in the Indian Army on 14 May 1970 and at the time of entry, the Applicant was subjected to a thorough medical examination and was found and declared medically fit as per the required standards, with no note or observation of any disease, injury, or wound.

5. It is the case of applicants that he was posted at 4 Corps Op Regt, Tezpur in 1989 during "Operation RHINO," which was carried out to counter full-fledged agitation by ULFA and Bodo militants, wherein while performing duties as a duty cipher officer, he had to work in double shifts due to the volume of traffic rising manifold, often continuing to work for 18 hours a day. Consequently, in this background of active participation and severe stress and strain, the Applicant was diagnosed with Essential Hypertension @ 30% for life on 08 Jan 1990.

6. Placing reliance on the judgment of the Hon'ble Supreme Court in Dharamvir Singh vs. UOI & Ors, the applicant submits that 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, and that any subsequent deterioration in health is to be presumed due to service and that the onus of proof for non-entitlement lies with the employer, not the claimant.

7. It is further submitted that the Applicant was prematurely and unceremoniously discharged locally on 31 Jul 1998 under Army Rule 13(3) Item III (i) in low medical category BEE(P). It is submitted that this discharge was against his wish and without an opportunity of being heard, which amounts to deemed invalidation.

8. It is contended by Learned counsel for the applicant that the Respondents wrongfully denied disability pension on the ground that the disability is neither attributable to nor aggravated by military service (NANA) without citing any cogent reasons, which is contrary to the Entitlement Rules and Guide to Medical Officers.

9. The learned counsel also drew the attention of this Tribunal to the case of Union of India and Ors. vs. Ram Avtar, submitting that an individual who retires on attaining the age of superannuation or on completion of tenure and is suffering from a disability attributable to or aggravated by service is entitled to the benefit of rounding-off of disability pension. The counsel submitted that the Applicant is entitled to the grant of disability pension @ 50% after rounding off from 30% for life, with effect from the date of discharge, along with interest.

Submissions on behalf of Respondents

10. Per contra, the learned counsel for the respondents submitted that the applicant, No. JC-188058W Ex Sub Garimella Venkata Seetha Ramakrishna, was enrolled in the Army (Corps of Signals) on 14 May 1970 and was subsequently discharged from service on 31 July 1998 (A/N) under Army Rule 13 (3) III(i) after being placed in low medical category BEE (Permanent).

11. It is contended by the respondents that since the Release Medical Board (RMB), which is an expert body, specifically opined that the disability "ESSENTIAL HYPERTENSION" is Neither Attributable to nor Aggravated by Military Service (NANA), the Applicant is not entitled to any disability pensionary benefits. The learned counsel for the respondents submitted that the disability was adjudicated by the PCDA (P), Prayagraj, in consultation with the Medical Advisor (Pensions), who concluded that the disease is "constitutional in nature and not related to service".

12. The learned counsel for the respondents further submits that the Applicant's claim is barred by the principles of delay and laches. It is submitted that the Applicant was discharged in 1998 and his claim was rejected in June 1999. Despite being specifically advised by Signals Records via letter dated 19 July 1999 to prefer an appeal against the rejection within the stipulated time, the Applicant remained silent for over 24 years before approaching this Tribunal.

13. The learned counsel for the respondents relied on the legal position that the benefit of broadening/rounding off of disability pension, as per the judgment in Union of India vs. Ram Avtar (supra), is a secondary relief that can only be granted if the primary eligibility for disability pension is established. Since the Applicant's disability was categorically

declared NANA, the counsel submitted that the question of rounding off does not arise. Therefore, the respondents pray that the Original Application be dismissed both on merits and on the grounds of an unexplained, inordinate delay.

Consideration

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

15. The record reveals that upon expiry of the initial period, efforts were made by the authorities to secure the applicant's original RMB records.

16. The delay in the present case is not marginal but extraordinary. The applicant approached the authorities for grant of disability pension only in April 2023, after nearly 25 years from the date on which he was discharged from service. 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.

17. 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 Release Medical Board documents, were justified in declining grant of disability pension. Moreover, the Annexure R-9 by the Respondents, a letter dated 14.01.2021 clearly states that except a copy of AFMSF-18 (medical examination report), no other medical documents are held with the applicant's dossier.

18. There is no doubt that pension is a beneficial provision; however, equitable considerations cannot override statutory discipline and procedural compliance. The observations of the Hon'ble Supreme Court *dated 07.05.2025* in the verdict in *Rajumon T.M. vs. Union of India* bring forth the necessity of the Medical Board recording specific reasons for the opinion and the question whether the cause and attended circumstances can be attributed to service. Paras, 20, 21 and 23 of the said verdict reads to the effect: -

20. In our opinion, the requirement to give reasons by the Medical Board is crucial, critical, decisive and necessary for the purpose of granting or denying disability pension and it is not a mere formality, but a necessary material on the basis of which the pension sanctioning authority has to decide about the grant or refusal of disability pension.

21. As noticed above, it has been specifically provided under Clause (d) of Regulation 423 as quoted that the question as to whether the disability is attributable to or aggravated by service or not, will be decided as regards its medical aspects by the Medical

Board and the Medical Board will specify reasons for their opinion and the question whether the cause and attendant circumstances can be attributed to service will be decided by the pension sanctioning authority.

23. Hence, the rules mandate giving of reasons by the Medical Board while rendering its opinion. The reasons given by the Medical Board would obviously be the basis for determination by the competent authority whether the serviceman would be discharged from service and whether he would get disability pension.

19. At this point, it is also relevant to refer to the observations made by Hon'ble Supreme Court in *Secretary, Ministry of Defence and others vs A.V.Damodaran (dead) through LRs and others* [(2009) 9 SCC 140], clearly brings out the following principles with regard to primacy of medical opinion have been laid down:-

"8. When an individual is found suffering from any disease or has sustained injury, he is examined by the medical experts who would not only examine him but also ascertain the nature of disease/injury and also record a decision as to whether the said personnel is to be placed in a medial category which is lower than 'AYE' (fit category) and whether temporarily or permanently. They also give a medical assessment and advice as to whether the individual is to be brought before the release/invalidating medical board. The said release/invalidating medical board generally consists of three doctors and they, keeping in view the clinical profile, the date and place of onset of invaliding disease/disability and service conditions, draws a conclusion as to whether the disease/injury has a causal connection with military service or not. On the basis of the same, they recommend (a) attributability, or (b) aggravation, or (c) whether connection with service. The second aspect which is also examined is the extent to which the functional capacity of the individual is impaired. The same is adjudged and an assessment is made of the percentage of the disability suffered by the said personnel which is recorded so that the case of the personnel could be considered for grant of disability element of pension. Another aspect which is taken notice of at this stage is the duration for which the disability is likely to continue. The same

is assessed/recommended in the form of AFMSF-16. The Invalidating Medical Board forms its opinion/recommendations on the basis of the medical report, injury report, court of enquiry proceedings, if any, charter of duties relating to peace or field area and, of course, the physical examination of the individual.

9. The aforesaid provisions came to be interpreted by the various decisions rendered by this Court in which it has been consistently held that the opinion given by the doctors or the medical board shall be given weightage and primacy in the manner for ascertainment as to whether or not the injuries/illness sustained was due to or was aggravated by the military service which contributed to invalidation from the military service."

20. In view of the above, we hold that the present OA is barred by gross and unexplained delay and laches; the absence of original medical records (RMB) has caused prejudice to the respondents in verifying the claim; and the impugned order dated 9th December, 2020 does not suffer from any illegality, arbitrariness or procedural infirmity warranting interference by this Tribunal.

21. Accordingly, both the OA 961/2023 and MA 1512/2023 are dismissed with no order as to costs.

Pronounced in open Court on this ²²23 day of March, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)