

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

21.

OA 1/2026 with MA 1/2026

NB Sub Deena Nath Pandey (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Dhiraj Kumar, Advocate
For Respondents	:	Maj. Satvik Grover, OIC Legal Cell

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

ORDER
13.01.2026

Invoking the jurisdiction of this Tribunal under Section 14 the applicant has filed this Application and the relief claimed is to conduct the Re-Survey Medical Board on the applicant and thereafter, awarding him disability benefit.

2. The applicant submitted a representation on 16.01.2024 for conducting of the Resurvey Medical Board and claimed disability element of pension. The applicant was enrolled in the Indian Army on 13.02.1986 and was discharged from service on 28.02.2014 after 28 years of service. At the time of discharge, the applicant was in Shape-1 (with no disability or ailment) as is evident from the documents Annexure A-2. It is the case of the applicant that he was first diagnosed with Hypertension at ECHS Polyclinic, Deoghar,

Jharkhand and treatment for the same was carried out on 12.02.2016 vide prescription at (Annexure A-3) issued by ECHS Polyclinic, Deoghar. The applicant now seeks conduct of Resurvey Medical Board for the said ailment.

3. As per the provisions of the Entitlement Rules, 2008, even in cases where a disease was not noted at the time of retirement or discharge but manifests within a period of seven years thereafter, the same may be recognized as attributable to military service, provided it is established by the competent authority that such disability is a delayed manifestation of a pathological process set in motion by the service conditions obtaining prior to discharge.

4. In the present case, the applicant was released from service on 28.02.2014. He claims that he suffered from the ailment which was detected in the year 2016. However, it was only on 16.01.2024, i.e., after more than seven years from the detection of the ailment, that he submitted the representation. If we analyse the case of the applicant in the backdrop of the Entitlement Rules, 2008 and the stipulations contained therein with regard to the ailment arisen within seven years, it is seen that there is no material available on record to indicate that the ailment arose within seven years after discharge of the applicant and even the claim now made by him for

conducting the Resurvey medical board is made after a period of ten years of his discharge on 16.01.2024.

5. The applicant claims that his case is covered under Clause 8(a) of the Entitlement Rules of 2008 on the ground that after his discharge on 28.02.2014, on 12.02.2016, he was diagnosed with Hypertension. In support of the same, the applicant filed a printed prescription slip at Annexure A-3, said to have been issued by the ECHS Polyclinic Deogarh, where the particulars have been filled up and two tablets prescribed. The diagnoses shown as Hypertension and his Blood Pressure is measured as 150/100.

6. It is the contention of the applicant that the ailment was detected within two years of his discharge and it falls within the provisions of Clause 8(a) of the Entitlement Rules of 2008 in favour of which he has brought on record all the relevant documents. However, neither in the pleadings nor in the documents filed is there any medical evidence in the form of medical tests, prescriptions, opinion of doctors or purchase of medicine to show that the applicant was continuously taking treatment for the ailment of Hypertension right from 2016 till now. Surprisingly, by filing the prescription as a medical document the applicant claims the benefit of the medical rules for disability. It is also surprising that from

2016 for a period of eight years up to January 2024, the applicant kept quiet and did not raise any claim or made any representation through the Zila Sainik Board or any other forum for veterans to ventilate his grievance claiming the benefit of disability element.

7. That apart, in the application filed for condonation of delay under Section 22(2) MA No.1/2026, the applicant does not indicate as to what action he took after he was diagnosed with the ailment on 12.02.2016 till filing of the representation on 16.01.2024 and even after the representation was rejected on 02.02.2024 vide Annexure A-1 what he did approximately for two years i.e upto 22.12.2025 which is the date of filing of this application.

8. From the aforesaid narration of facts, it is clear that the applicant has not *prima facie* made out a case to show that he contacted the ailment within the period of seven years as stipulated in Rule 8(a) of Entitlement Rules, 2008 and till filing of this Application he was continuously suffering from the ailment.

9. Secondly, convincing documentary evidence with regard to the ailment are also not available.

10. Thirdly, the delay in approaching this Tribunal i.e. the delay from the date of detection of the ailment i.e. from 12.02.2016 upto

16.01.2024 and thereafter from 02.02.2024 till filing of the application on 22.12.2025 is not explained in the backdrop of the requirement of Section 22 (2) of the Armed Forces Tribunal Act. Section 22(1) of the Armed Forces Tribunal Act, 2007 is a provision for condonation of delay and is *pari materia* with Section 5 of the Limitation Act, 1963. The delay, therefore, must be properly and satisfactorily explained. The delay has to be explained continuously with reference to the period for which the condonation is sought for. In this case, condonation is sought for the period from 12.02.2016 onwards and there is no whisper anywhere in the application for condonation of delay as to what the applicant did from 12.02.2016 upto 16.01.2024 and thereafter from 02.02.2024 upto filing of this Application in December, 2025. Even the principles for condonation of delay are not satisfactorily complied with by the applicant.

11. Even though the applicant has relied upon the judgment of *Union of India and Ors. v. Tarsem Singh*, 2009(1) AISLJ 371 to contend that pension is a continuous right and the remedy cannot be taken away on the ground of delay. We are unable to accept the aforesaid proposition. Though receipt of pension is a continuing right, entitlement to receive pension arises only if a subsisting legal right, in accordance with the applicable rules, exists in favour of the applicant. The applicant's right to claim pension will accrue only if

he is suffering from the disability and for establishing the existence of the disability and its manifestation in accordance with the rules is an issue which has to be adjudicated by this Tribunal. For adjudicating this issue, there has to be proper medical evidence and other material based on which the same can be adjudicated. The applicant has not produced any evidence based on which this issue can be adjudicated. Admittedly, when the applicant was discharged on 28.02.2014, he was in SHAPE 1 i.e. without any disability and according to him, the disability manifested on 12.02.2016 and continuous even till now. However, except for filing a prescription, as indicated hereinabove, dated 12.02.2016 which in our considered view, is not a document based on which the existence of the ailment can be established, there is nothing available on record to adjudicate or grant benefit of disability to the applicant.

12. Taking note of all these factors, we are of the considered view, that apart from the inordinate delay in filing of the Application, the applicant has not made out a case which comes within the purview of Rule 8(a) of the Entitlement Rules, 2008 and in the facts and circumstances of the case, we are not inclined to interfere into the matter. The entire averments made by the applicant in the Application seems to be an after thought and only a process to take advantage of the benefit of disability pension being granted without

any substantial material to show that he is actually suffering from the disablement. Accordingly, finding no case made out for interference, the OA stands dismissed.

13. There is no order as to costs. Pending MA also stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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