

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

OA 597/2017

Ex CPO RC Ramphal Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. S C Tomar, 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

The applicant has invoked the jurisdiction of this Tribunal under Section 14 of the **Armed Forces Tribunal Act ('AFT Act')**, aggrieved by the order dated 19.01.2017 (**'impugned order'**), whereby his claim for grant of disability pension was rejected.

BRIEF FACTS

2. The factual matrix of the case is that the applicant was enrolled in the Indian Navy on 21.07.1965 and was discharged from service on 31.07.1990 on expiry of term of engagement. At the time of his discharge, he was placed in low medical category for the disability '**Intestinal Tuberculosis**'. The **Release Medical Board**

(‘RMB’) dated 02.07.1990 considered his disability as ‘Attributable to the service’ and assessed the same @20% for life.

3. The Medical Adjudication (Pension) [MA(P)] in the office of PCDA (P), Allahabad, though accepted the disability as ‘Attributable to service’ with 20% assessment but restricted it only for two years. The applicant was initially sanctioned disability pension *vide* PFO No. 09/97/B/D/0069/1991 dated 30.04.1991 for a period of two years i.e. 01.08.1990 to 01.07.1992. Thereafter, his disability pension was discontinued with effect from 02.07.1992 for 05 years as his disability was reassessed as ‘NIL’ (i.e., less than 20%) by the competent authority. The same was intimated to the individual *vide* CABS letter No. DP/D/II/083675 dated 20.11.1992.

4. The applicant gave a legal notice dated 10.11.2016 to the respondent for the grant of disability pension, the same was however rejected by the Respondent *vide* the impugned letter dated 19.01.2017. Aggrieved thereby, the applicant has preferred the present Original Application seeking the following reliefs:

“A. Order (s)/ Direction (s) to set aside impugned unconstitutional and arbitrary orders letter NO LC/PEN/600/LEGAL NOTICE/ 83675 dated 19/01/2017, which the respondents rejected the disability claim of the applicant.

B. issuance Orders/ Directions to the respondents to grant disability pension with round off 50% to the applicant according to Rules and Regulations for life with 12% interest on the pensioner's amount from the date of three years prior from the dated of filing present Application.

C. Grant any other/ Further relief which this Hon'ble Tribunal may deem, fit and proper in the facts and circumstances of the case in the interest of justice.”

CONTENTIONS OF PARTIES

5. The contention of the learned counsel for the applicant is that once the RMB had considered his disability i.e. 'Intestinal Tuberculosis' for life, the PCDA (P) had no right/authority to restrict the same for a period of two years. It is further argued that the disability pension earlier granted to the applicant was discontinued w.e.f 02.07.1992 treating the disability as 'NIL,' without even conducting any Re-survey/Re-assessment Medical Board. It is argued that the applicant continues to suffer from the said disability and was not afforded any opportunity of being heard prior to the discontinuance of his disability pension. Placing reliance on the judgment of the Hon'ble Supreme Court judgment in *Ex Sapper Mohinder Singh and others vs. Union of India* (Civil Appeal No. 164/1993), it is contended that once a disability has been assessed for life by a duly constituted Medical Board, the same cannot be altered or changed at the whims of the PCDA (P), which is not a medical authority.

6. *Per contra*, the stand of learned counsel for the respondent is that there is an inordinate and unexplained delay of more than 24 years in filing the present application. However, the said delay was condoned *vide* order dated 29.04.2025 in the light of the decision in *Union of India and others v. Tarsem Singh* [(2008) 8 SCC 648].

7. Learned Counsel for the respondent submitted that the order of the PCDA (P) restricting the grant of disability pension to a period of two years was never challenged by the applicant at the relevant point of time. It is further contended that the PCDA (P), being the final adjudicating authority in pension matters, accepted

the disability as 'Attributable to service' for a period of two years only and, accordingly, sanctioned disability pension for the period from 01.08.1990 to 01.07.1992. It is stated that thereafter the disability was reassessed as 'NIL' (i.e., less than 20%) by the competent authority i.e. the PCDA (P), *vide* letter dated 18.11.1992, and the discontinuance of disability pension was duly intimated to the applicant *vide* CABS letter No. DP/D/II/083675 dated 20.11.1992. Learned Counsel further submitted that upon completion of five years in 1997, a **Re-Survey Medical Board ('RSMB')** was arranged at Base Hospital, Delhi Cantt, *vide* letter dated 15.04.1997. However, the applicant failed to report for the said RSMB despite the issuance of a call-up letter by Base Hospital *vide* letter dated 10.12.1997. Further, no response was received from the applicant to the letter dated 07.04.1998 seeking clarification for his failure to report for the RSMB. It is submitted that the applicant himself not turned up for RSMB and after a huge lapse of 19 years had served a legal notice dated 10.11.2016 for grant of disability pension with broad banding which was rightly rejected by the authority concerned.

ANALYSIS

8. We have heard learned counsel for the parties and have perused the documents available on record.

9. In the present case, the disability of the applicant was held to be 'Attributable to military service' and was assessed at 20% for life by the RMB. However, the said assessment was subsequently restricted by the PCDA (P), Allahabad, to 20% for a period of two years only, and thereafter reduced to 'NIL' (i.e., less than 20%) for a further period of five years. The specific allegation of the applicant that the disability

was reduced to 'NIL' by the PCDA (P) on its own, without the constitution or convening of any RSMB, has not been specifically denied by the respondents in their counter affidavit.

10. Further, a perusal of the RMB dated 02.07.1990 shows that the applicant was suffering from 'Pulmonary Tuberculosis' which was assessed @20% for life (permanent). However, for reasons best known to the respondents, the word "Pulmonary" appears to have been struck off and the word "Intestinal" inserted in its place. It is pertinent to note that the said correction/alteration does not bear any initials or attestation, thereby casting serious doubt on its authenticity.

11. It is also relevant to note that this Tribunal, *vide* order dated 17.10.2024, directed that the applicant be subjected to a Review Medical Board in view of the fact that the disability, originally assessed for life by the RMB, had been interfered with by the PCDA (P), Allahabad, and restricted to a period of two years only. Pursuant thereto, the applicant reported to the hospital on 14.07.2025 for reassessment of his disability. The **Re-Assessment Medical Board ('RAMB')** was duly conducted and completed on 29.07.2025. An affidavit to that effect has been filed before this Tribunal by the Commander, Base Hospital, Major General Arnesh Ghai, AVSM.

12. As per the opinion of the Medical Expert, Col. Dharmendra Kumar, MD (Medicine), DM (Gastroenterology), Senior Advisor (Medicine) and Gastroenterologist, there are presently no symptoms or clinical signs suggestive of any active or residual disease. There is no evidence of active Intestinal Tuberculosis. However, with regard to the disability 'Pulmonary Tuberculosis,' the applicant was

found to be symptomatic, with intermittent cough and breathlessness. Radiological sequelae and significant pulmonary function impairment were noted, and the illness is stated to be likely to persist for life. The percentage of impairment was assessed at 30% by the RAMB vide proceedings dated 29.07.2025. However, the RAMB assessed the composite disability of 'Pulmonary and Intestinal Tuberculosis' at 20% for life for the period from 02.07.1992 to 28.02.2025. The relevant portion of the assessment is reproduced hereunder:

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CONFIDENTIAL

No: 083675Y Rank: Ex CPO
Name: Ramphal Singh

6. (a) Assessment of illness (es)/impairment (s) for which RAMB/RMB has been sanctioned (in words and figures) (Percentage will be expressed as Nil or as follows): 5%, 10%, 15% upto 100%. If the assessment given in Ch VII as per RPwD act assessment guideline then exact% will be mentioned. Assessment sheet will be signed by concerned specialist and all members of the medical board to verify its correctness. No rounding off will be done by the board.

Med conditions leading to impairment(s)	Previous Assessment (Both in words and figures)	Present Assessment (Both in words and figures)	Assessment for impairment due to non-service factors (As per para 4 (c))	Present Assessment (Column iii minus iv)	Duration of Assessment	Composite Net assessment referable to service with duration (Both in words and figures)
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
PULMONARY & INTESTINAL TUBERCULOSIS	20% (Twenty percent) For life	20% (Twenty Percent)	-	20% (Twenty Percent)	For life	20% (Twenty Percent) For life

6. (b) Assessment of illness (es)/impairment(s) during intervening period (in words and figures):-

Med conditions leading to impairment(s)	Assessment (Both in words and figures)	Duration of Assessment		Composite Net assessment referable to service with duration (Both in words and figures)
		From	To	
PULMONARY & INTESTINAL TUBERCULOSIS	20% (Twenty percent)	02 Jul 1992	28 Jul 2025	20% (Twenty percent) for intervening period

7. Constant Attendant Allowance (Only for members with 100% impairment):-

No	Nomenclature	Remarks
(a)	Constant attendance allowance with duration	No
(b)	Give Justification	-

Member
Narender Singh
Major
Graded Specialist
(Orthopaedics)
Base Hospital Delhi Cantt

Member
(Neha Singh)
Maj
Gd Splt (Microbiology)
CONFIDENTIAL Delhi Cantt

President Medical Bd
President Medical Board
Base Hospital Delhi Cantt


TC

13. The applicant, in the present case, is an Ex-serviceman and is already in receipt of disability pension. As per the RAMB, the disability has been assessed at 20% for life for the intervening period from 02.07.1992 to 28.07.1995.

14. In view of the foregoing, the present Original Application is allowed. The applicant is held entitled to disability pension, including the benefit of broad-banding due to him for life. The arrears shall be paid for the period from 02.07.1992 to 28.07.2025, together with interest at the rate of 6% per annum.

15. Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on 26th day of February, 2026.


(JUSTICE NANDITA DUBEY)
MEMBER (J)


(RASIKA CHAUBE)
MEMBER (A)

/s/