

COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 808/2018

Ex Hony Sub Lt MCME-II Shamsher Singh ... Applicant

Versus

Union of India & Others

.... Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate

For Respondents : Mr. J S Yadav, Advocate

CORAM:

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

HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

The applicant, through the instant OA, seeks grant of disability element of pension, with benefits of broad banding and interest.

2. The applicant who joined the Indian Navy on 06.07.1985 and was discharged from service on 31.07.2017 after

completion of 32 years and 26 days of service in low medical category S2A2(H) Pmt. The applicant was diagnosed with the disability "Chronic Suppurative Otitis Media (B/L) OPTD" which was assessed at 11-14% for life by Release Medical Board held in the month of January, 2017 at Base Hospital, Delhi Cantt. As per the said Medical Board the disability was attributable to military service due to infection contracted in military service. The claim for grant of disability element was rejected by the respondents vide their letter No. PEN/600/D/LRDO I: 07/2017/162756A dated 14.03.2017, stating that the disability suffered by him does not fulfill the eligibility condition as laid down under Regulation 100 of Navy (Pension) Regulation, 1964, since the disability is NIL% less than 20%.

3. Learned counsel for the applicant contended that assessment of disability to the tune 11-14% itself is a doubtful assessment and cannot be final word for the simple reason that in earlier Re-Cat Boards, the assessment was to the tune of 20%, with remark that it is likely to remain same. Furthermore, the ENT specialist Col K D Singh Classified Specialist,

examining the applicant on 03.01.2017 has remarked that the individual's hearing has remain unchanged in both ears with further advice as under :-

“

PART 4

RECOMMENDATIONS

2. Medical recommendations & employability restrictions :

(a) Not to be exposed to loud sounds/weapon firing.

(b) Not to be employed for duties requiring good binaural good acuity of hearing.”

4. It is submitted that even as per GMO 2008, the minimum assessment of hearing loss is 20% under such circumstances, the benefit ought to be given to the applicant.

5. Per contra, learned counsel for the respondents contended that the Medical Board opinion cannot be questioned unless there is a contrary Medical Board opinion. As per the Pension Regulations, the applicant is not entitled to the relief claimed being less than 20% degree of disablement.

6. We have heard the learned counsel for the applicant as well as the learned counsel for the respondents and perused the

documents available on record along with the relevant regulations.

7. It is an undisputed fact that the applicant had joined the service on 06.07.1985 having been adjudged to be fully fit after rigorous medical examination. Disability of "Chronic Suppurative Otitis Media (B/L) OPTD" which was detected on 08.03.2010 was considered as attributable to military service due to infection contracted in military service and assessed at 20%.

8. As per the Summary and Opinion of Col Avinash Das, SR ADV (ENT) Command Hospital (EC), Kolkata dated 25.12.2010 attached to the Re-categorisation Board proceedings. The applicant was presented with discharge left ear. He was found to have central perforation in the left tympanic membrane. He underwent Cortical Mastoidectomy with Tympanoplasty (left) at INHS Kalyani on 07 May 10. Subsequently for ear discharge on right side, he was found to have retraction pocket in posterosuperior quadrant of right tympanic membrane. He underwent Cortical Mastoidectomy with tympanoplasty (right)

at INHS Kalyani on 25 Aug 10. Peroperatively, aditus and antrum was found to be filled with granulation tissue. Ossicular mobility was restricted as some mass was found stuck to the promontory. Middle ear was also cleared. Temporalis fascia was used for grafting.

9. The Categorisation Board proceedings further found the applicant to be unfit for duties requiring good hearing acuity and permanently unfit for submarine service.

10. The subsequent Re-categorisation Medical Boards of applicant (from 2011 to 2016), reveal that applicant's disability was assessed at 20% and it remained static throughout. However the RMB has reduced the percentage to 11-14% without any rational basis despite the fact that Col K D Singh, Classified Specialist (ENT) has remarked that individual's hearing remain unchanged in both ears.

11. In the instant case, the applicant suffers from "Chronic Suppurative Otitis Media (B/L) OPTD". Para 20 of Chapter VII

of the GMO (MP) amendment 2008 prescribes the assessment of percentage for the disability of hearing loss as under :-

“20. Hearing Loss. Hearing loss refers to impairment of hearing, the degree of which may vary from mild to total hearing loss.

Assessment of hearing loss :

(a) Screening for hearing loss should be carried out with free field hearing tests, namely Conversational Voice Tests, (CV) and Forced Whisper Test (FW) using Phonetically Word List. If any subject scores less than 610 cms in CV/FW Test, he should be subjected to assessment for a hearing loss using pure tone audiometry.

Assessment should be based on the grade attained using both ears together, the percentage assessment appropriate to the grade thus attained is given below:

Grade	Degree of hearing attained	Assessment for both
Ears used together		
1.	Total deafness	100%
2.	Shout not beyond 3 feet	80%
3.	Conversational voice not over 1 Foot	60%
4.	Conversational voice not over 3 Feet	40%
5.	Conversational voice not over 10 Feet	
	(a) Unilateral total deafness	40%
	(b) Otherwise	20%

A case in which the right ear attained grade 4, the left ear grade 2 should be assessed as follows :

Disability for grade 4	40%
Disability for grade 2	80%

$$\text{Total mean disability} = \frac{(40 + 80)}{2} = 60\% \quad \text{”}$$


12. A perusal of aforestated shows that minimum assessment for hearing loss is 20%. It is unfortunate that despite clear guidelines by the Govt. of India, the same is not followed by the Medical Authorities/Board.

13. In view of the aforestated, this OA deserved to be allowed. The applicant is found entitled to grant of disability pension @20% for life from the date of his discharge which is to be broad banded to 50% in the light of the judgment of the Hon'ble Supreme Court in **Union of India & Ors. vs. Ram Avtar** decided on 10.12.2014, and Govt. of India letter dated 31.01.2001.

14. The respondents are thus directed to accordingly calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of

receipt of copy of this order failing which the applicant will be entitled for interest @ 6% p.a. from the date of receipt of copy of the order by the respondents.

Pronounced in the open Court on this 24th day of March, 2026.


[MS. RASIKA CHAUBE]
MEMBER (A)


[JUSTICE NANDITA DUBEY]
MEMBER (J)

/Yogita/

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

For Judgment
A.

OA 808/2018

Ex Hony Sub Lt MCME-II Shamsheer Singh Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. V S Kadian, Advocate
For Respondents : Mr. J S Yadav, Advocate

CORAM

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

ORDER
24.03.2026

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)

YOGITA