

**ARMED FORCES TRIBUNAL, CHANDIGARH REGIONAL BENCH AT
CHANDIMANDIR**

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OA 1221 of 2012

Dharampal **Petitioner(s)**

Vs

Union of India and others **Respondent(s)**

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**ORDER
03.05.2012**

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**Coram: Justice NP Gupta, Judicial Member.
Lt Gen (Retd) H.S. Panag, Administrative Member.**

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For the Petitioner (s) : Mr Surajmal Kundu, Advocate

For the Respondent(s) : Mr. S.K. Sharma, Sr. Panel Counsel.

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Justice N.P. Gupta

By this petition, the petitioner claims grant of disability pension.

The petitioner has pleaded in para 4 of the petition that he was enrolled on 08-12-1984, and was discharged w.e.f. 01-05-2000 with two disabilities, first being DNS (LT) (OP) WITH NASAL ALLERGY, and the second being RECURRENT DISLOCATION (LT) ELBOW. The Medical Board opined each disability to be to the extent of 20%. The first disability was opined to be aggravated due to climatic conditions of military service, while the second disability was opined to be neither attributable to nor aggravated by military service. However, the claim for disability pension

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was rejected vide communication dated 21-11-2000 on the ground of both the disabilities being neither attributable to nor aggravated by military service, and were taken to be constitutional in nature. Thereafter, vide application dated 19-03-2012, the petitioner approached under Right to Information Act, and vide communication dated 06-04-2012, he was supplied with copies of Medical Board Proceedings, which showed that Medical Board had opined the first disability to be aggravated by military service for two years.

From these facts, it is clear that the PCDA has interfered with the opinion of competent Medical Authority, being the Release Medical Board, on the aspect of first disability being aggravated by military service, which, in view of consistent judgments of Hon'ble Supreme Court, including that of **Union of India Vs. Dhir Singh Chhina, AIR 2003, SC 1197**, it was not open to the PCDA to so interfere.

Consequently, in view of the opinion of the Medical Board, the petitioner is held entitled to get disability pension for the first disability.

At the same time, in view of the judgment of this Tribunal dated 4-08-2010 passed in **OA No. 329 of 2010 titled Lt. Gen Vijay Oberoi and others vs. Union of India and others**, the petitioner is also entitled to the benefit of "rounding off".

The petition is, accordingly, allowed, and the respondents are directed to assess the payable disability pension, as above. However, since the claim was rejected on 21-11-2000, and the present OA has been filed

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on 30-04-2012, the petitioner will be entitled to actual arrears from 30th April, 2009 for rest of the life.

Necessary calculation and actual payment be now made to the petitioner within three months from the date of receipt of a certified copy of this order by the learned counsel for the respondents, failing which, amount will carry interest @ 10% per annum,

(Justice NP Gupta)

[Lt Gen (Retd) H.S. Panag]

03.05.2012

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