

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

I.A. NO.39 OF 2011 IN O.A.NO.20 OF 2011

THURSDAY, THE 15TH DAY OF DECEMBER, 2011/24th AGRAHAYANA, 1933

CORAM:

HON'BLE MR. JUSTICE A.C.ARUMUGAPERUMAL ADITYAN, MEMBER (J)

HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

EX GNR KRISHNA PILLAI (1262102) AGED 59 YEARS,
K.J. NIVAS, THERANNOOR, PERUMPAZHUTHUR POST,
DISTRICT THIRUVANANTHAPURAM, KERALA,
PIN - 695 126

APPLICANT

BY ADV. SRI. P. RAVEENDRAN.

versus

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI – 11.
2. THE CHIEF OF THE ARMY STAFF, **RESPONDENTS/RESPONDENTS:**
INTEGRATED HQ OF MOD (ARMY),
DHQ P.O., NEW DELHI – 110 011.
3. RECORD OFFICER, TOPKHANA ABHILEKH,
ARTILLERY RECORDS, NASIK ROAD CAMP – 422 102.
4. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS (PENSIONS),
OFFICE OF THE P.C.D.A.(P), DRAUPADI GHAT, ALLAHABAD,
U.P. 211 014.

R1 TO R4 BY SR. PANEL COUNSEL SRI. K.M. JAMALUDEEN.

ORDER

A.C.A. Adityan, Member (J):

This is an application to condone the delay of 24 years and 57 days in filing the Original Application before this Tribunal.

2. We heard the learned counsel appearing for the applicant as well as the learned Senior Panel Counsel Sri.K.M.Jamaludeen. Apart from the inordinate delay, we have to consider the relief asked for in this Original Application for disability pension is maintainable in view of the opinion of the Medical Board. A perusal of the opinion of the Medical Board in AFMSF-16 will go to show that Medical Board has opined that the disease-Schizophrenia (295) suffered by the applicant is neither attributable to nor aggravated by service, but the same is constitutional in nature. When the learned counsel was appraised of the latest judgments of the Apex Court in **Secretary, Ministry of Defence v. Damodaran A.V.(dead) through LRs.** (2009) 9 SCC 140, followed by **Union of India v. Jujber Singh**, AIR 2011 SC 298, the learned counsel has come forward to withdraw the application with a liberty to challenge the opinion of the Medical Board in AFMSF-16 before the Review Medical Board. Endorsement is made to that effect by the learned counsel.

3. Under such circumstances, I.A. No.39 of 2011 is dismissed as withdrawn. No costs.

Sd/-
LT. GEN. THOMAS MATHEW,
MEMBER (A)
DK.

Sd/-
JUSTICE A.C.A. ADITYAN,
MEMBER (J)

(True copy)

Prl. Private Secretary

IA No.39 of 2011:

- 3 -

ARMED FORCES TRIBUNAL,
REGIONAL BENCH, KOCHI.

I.A. No.39 of 2011 in
O.A. NO.20 OF 2011

ORDER

DATED: 15.12. 2011