

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI**

T.A.NO.119 OF 2009

[W.P.(C) No.11842/07 of the Hon'ble High Court of Kerala, at Ernakulam)

TUESDAY, THIS THE 13TH DAY OF DECEMBER, 2011/22ND AGRAHAYANA, 1933

CORAM:

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

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

K.U. SURESH, S/O. LATE K.K.R. PODUVAL,  
**MANIKYAM HOUSE, ANNUR P.O.,**  
PAYYANNUR, KANNUR DISTRICT.

**APPLICANT/PETITIONER:**

**BY ADV. SRI. WILSON URUMESE..**

*versus*

1. UNION OF INDIA, REPRESENTED BY ITS  
SECRETARY, MINISTRY OF DEFENCE, NEW DELHI .

**RESPONDENTS/RESPONDENTS:**

2. THE CHIEF OF NAVAL STAFF,  
NAVAL HEAD QUARTERS, SENA BHAVAN,  
D.H.Q. POST OFFICE, NEW DELHI – 110 011.
3. THE DIRECTOR GENERAL MEDICAL SERVICES (NAVY),  
NAVAL HEADQUARTERS, SENA BHAVAN, NEW DELHI.
4. THE COMMODORE, BUREAU OF SAILORS,  
CHEETAH CAMP, MANKHURD, BOMBAY.
5. THE CONTROLLER OF DEFENCE ACCOUNTS (NAVY), BOMBAY.  
R1 TO R5 BY SR. PANEL COUNSEL SRI.K.M. JAMALUDEEN

**ORDER**

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

Heard the learned counsel appearing for the applicant. When it was made clear to the learned counsel for the applicant that as far as the opinion of the Medical Board in AFMSF 16 is to the effect that disability under which the

applicant was suffering was held to be neither attributable to nor aggravated by service, the applicant is not entitled to the relief of disability pension asked for in this application as per the dictum laid down by the Apex Court in **Secretary, Ministry of Defence vs. Damodaran A.V.(Dead) through LRs.** (2009) 9 SCC 140, followed by **Union of India vs. Jujher Singh**, AIR 2011 SC 2598, the learned counsel has come forward to withdraw this application with a liberty to challenge the medical opinion in AFMSF-16 before the competent authority. Endorsement made to that effect.

2. In fine, the application, T.A. No.119 of 2009, is dismissed as withdrawn with a liberty to challenge the opinion of the Medical Board by way of filing review application before the Review Medical Board to be constituted by the respondents at Command Hospital, Bangalore, within two months from the date of applicant approaches the respondents with an application for the same.

No costs.

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

DK.

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

(True copy)

Prl. Private Secretary

*TA. No.119 of 2009*  
*[WP(C) No.11842/07 of the Hon'ble*  
*High Court of Kerala at Ernakulam]*

- 3 -

ARMED FORCES TRIBUNAL,  
REGIONAL BENCH, KOCHI.

*TA. No.119 of 2009*

*[WP(C) No.11842/07 of the Hon'ble*  
*High Court of Kerala at Ernakulam]*

**ORDER**

DATED: 13.12.2011