

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

O.A.NO.68 OF 2011

MONDAY, THE 16TH DAY OF JANUARY, 2012/26th POUSHA, 1933

CORAM:

HON'BLE MR. JUSTICE JANARDAN SAHAI, MEMBER (J)

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

EX.NB. SUB. JAYRAJ PRABHAKAR
(JC 747954 H) AGED 60 YEARS,
THAZHE KUNNATH HOUSE, P.O. KOMMERI,
NEAR RISHI PURAM TEMPLE, CALICUT,
KERALA - 673 007

APPLICANT :

BY ADV. SRI. T.R. JAGADEESH.

versus

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

2. THE CHIEF OF THE ARMY STAFF,
INTEGRATED HQ OF MOD (ARMY),
DHQ P.O., NEW DELHI 110 011.

RESPONDENTS:

3. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS (PENSIONS),
OFFICE OF THE P.C.D.A.(P), DRAUPADI GHAT,
ALLAHABAD, U. P. 211 014.

4. RECORDS OFFICER, EME RECORDS,
SECUNDERABAD – 500 021.

R1 TO R4 BY SMT. E.V. MOLY, CENTRAL GOVERNMENT COUNSEL.

ORDER

Janardan Sahai, Member (J):

Heard Sri.T.R.Jagadeesh, counsel for the applicant and
Smt.E.V.Moly, Central Government Counsel on behalf of the respondents.

The claim for disability pension of the applicant was rejected by the pension sanctioning authority. The present O.A. has been filed against the order of the pension sanctioning authority and the order dismissing the appeal. It appears that the applicant was invalided out of service for the disability, "Idiopathic Hypertension - 401". The Release Medical Board assessed the disability of the applicant at 20% for two years. In the opinion of the Release Medical Board, the disability was aggravated by military service. The Medical Officer attached to the office of the P.C.D.A., however, so it appears, disagreed with the opinion of the Release Medical Board and the claim of the applicant was rejected. After the rejection of the first appeal, the applicant has filed a second appeal, which too was dismissed on 1st December, 1997. The learned counsel for the applicant submitted that the opinion of the Release Medical Board that the disability was aggravated by military service could not have been disregarded by the P.C.D.A.. He relied upon the decision of the Supreme Court in **Ex.Sapper Mohinder Singh vs. Union of India**, (C.A. No.164 of 1991 decided on January 14, 1993).

2. In the counter affidavit, the respondents have stated in paragraph 19 that the Integrated Head Quarters, Ministry of Defence, has intimated vide their letter dated 25th April, 2011 that the alteration in the findings of the Invaliding Medical Board/Release Medical Board by the MA(P), PCDA(P), without having physically examined the individual do not stand to the

scrutiny of law and in view of the above policy letter, the action to process the case of the applicant for grant of disability pension is in hand. A copy of that letter dated 25th April, 2011 has been annexed as Annexure R2 to the respondents' reply.

3. The counsel for the parties requested that as the matter is pending consideration of respondent Nos. 2 and 3, the O.A. may be disposed of with a direction to these respondents to take a decision in the matter within a specific time frame.

4. In the circumstances, we dispose of this O.A. with a direction to respondent Nos.2 and 3 to take a decision in the matter of grant of disability pension of the applicant within a period of four months from the date a certified copy of this order is filed by either of the parties before the respondent Nos.2 and 3.

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

Sd/-
JUSTICE JANARDAN SAHAI,
MEMBER (J)

DK.

(True copy)

Prl. Private Secretary