

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</p> <p>1. <u>OA-20/2022</u></p> <p>Ex-Sub/CIk (SD) Monoj Kumar Manjhi Applicant By legal practitioners for Applicant. Mr. A.R.Tahbildar</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others. Respondents By legal practitioner for Respondents. Ms.Dipanjali Bora</p> <p><u>CORAM:</u></p> <p>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>Admit.</p> <p>Issue Notice to the Respondents.</p> <p>Ms. Dipanjali Bora, learned counsel for the respondents has accepted notice on behalf of all the respondents and prays for time to file reply</p> <p>Reply may be filed within four weeks and rejoinder, if any, may be filed within two weeks thereafter.</p> <p>List this matter on the date to be fixed by the Registrar.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>2. <u>OA-21/2022</u> With MA-03/2022</p> <p>Ex-Lnk Repket Chuchang Ao</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. A.R.Tahbildar</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr. P.K.Garodia</p> <p><u>CORAM:</u></p> <p>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>Heard the learned counsel for the parties.</p> <p>Admit .</p> <p>Issue notice to the Respondents.</p> <p>Mr. P.K.Garodia, learned counsel for the Respondents accepted notice on behalf of all the Respondents and prays for time to file reply.</p> <p>Reply may be filed within four weeks and rejoinder, if any, may be filed within two weeks thereafter.</p> <p>List the matter on a date to be fixed by the Registrar.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>3. <u>TA-02/2017</u> (Arising out of WP(CrI) 01/2012 and WA (CrI) 09/2016)</p> <p>Ex-Rfn Manoranjan Chakma</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. A.R.Tahbildar</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Ms.Dipanjali Bora</p> <p><u>CORAM:</u></p> <p>HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>Heard Mr. AR Tahbildar, learned counsel for the Applicant and Ms. Dipanjali Bora, learned counsel for the Respondents.</p> <p>Learned counsel for the Respondents has submitted that she will file counter affidavit in response to the affidavit filed on behalf of the Applicant.</p> <p>Request is accepted.</p> <p>Let the matter be listed on a date to be fixed by the Registrar. In the meantime, Respondents may file counter affidavit.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>4. <u>OA-25/2019</u></p> <p>Smt Minu Rajbongshi</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. Jahangir Hussain (Legal Aid Counsel) Mr. Rupam Jyoti Sarma</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr.PJ Barman</p> <p><u>CORAM</u></p> <p>HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>Respondents have filed a letter dated 24.6.2021 of AOC records addressed to the AFT Legal Cell HQ 51 Sub Area PIN 908651 C/O 56 APO whereby necessary documents has been asked for duly verified by the Zila Sainik Board. The letter dated 24.6.21 produced by the Respondents is taken on record.</p> <p>Applicant is directed to comply with the aforesaid letter of the AOC Records.</p> <p>Let the matter be listed on a date to be fixed by the Registrar for further order.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>5. <u>TA-01/2018</u> (Arising out of Cr 733/1998)</p> <p>Smt Rajo Devi Widow of late Sub Ganga Ram.</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. Mehdi Alam</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr. PK Garodia</p> <p><u>CORAM</u></p> <p>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>On the request of the learned counsel for the Applicant, the matter stands adjourned for the day.</p> <p>Let the matter be listed a date to be fixed by the Registrar.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

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	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>6. <u>OA(A)-35/2017</u></p> <p>Wing Cdr JJ Jacob</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. KN Choudhury, Sr Counsel Mr. Raghabendra Jha</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr. Pranjal Sharma</p> <p style="text-align: center;"><u>CORAM</u></p> <p>HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>On the request of Mr.K.N.Choudhury, learned senior counsel for the Applicant, the matter stands adjourned for the day.</p> <p>Let the matter be listed a date to be fixed by the Registrar.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: right;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
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Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>10. <u>OA-05/2021 with MA-06/2021</u></p> <p>Ex-NK Kolni Anal</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. A.R.Tahbildar</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr. P.K.Garodia</p> <p style="text-align: center;"><u>CORAM</u></p> <p>HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>On the request of the learned counsel for the Applicant, the matter stands adjourned.</p> <p>List the matter on a date to be decided by the Registrar.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>15. <u>OA-50/2019</u></p> <p>Ex- Sep Mangpu</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr. A.R.Tahbildar</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr. P.Sharma</p> <p style="text-align: center;"><u>CORAM</u></p> <p style="text-align: center;">HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>On the request of the learned counsel for the Applicant the matter stands adjourned.</p> <p>List the matter on a date to be decided by the Registrar.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p>48. <u>OA-02/2019</u></p> <p>Smt Damayanti Ray</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant. Mr.KR Patgiri Mr. G Sarma Ms C Das</p> <p style="text-align: center;">-Versus-</p> <p>UOI & Others.</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mr. B Kumar</p> <p style="text-align: center;"><u>CORAM</u></p> <p>HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J) HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>30.05.2022</u></p> <p>Learned counsel for the applicant seeks time to make a representation to the authorities concerned for publication of Part II order with regard to the marriage of the applicant, with deceased Subedar Barun Kumar Ray. He intends to withdraw this Original Application at this stage with liberty to file another OA, if his representation is rejected by the concerned authorities.</p> <p>In view of the above, the present OA is disposed of as being withdrawn with liberty to file another OA. If he feels aggrieved by the order of the administrative authorities, he may approach this Tribunal again.</p> <p>With the above observations and directions the OA stands finally disposed of.</p> <p style="text-align: center;">(HCS Bisht) MEMBER (A)</p> <p style="text-align: center;">(Mohammad Tahir) MEMBER (J)</p> <p>mc</p>

**ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI**

Monday, 30th day of May 2022

OA-13/2020
With MA-09/2020

Ex-Hav Neilal Vaiphei

..... Applicant
By legal practitioners for
Applicant.

Mr. A.R.Tahbildar

-Versus-

UOI & Others.

..... Respondents
By legal practitioner for
Respondents

Mr. B Kumar

CORAM

**HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)
HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)**

ORDER

30.05.2022

Counter affidavit already filed on behalf of the respondents is taken on record. No rejoinder is intended to be filed by the applicant. However, with the consent of learned counsel for both the parties, this matter is taken on board for final disposal today itself.

2. By this petition, the applicant has prayed for setting aside decision of administrative authority and has prayed for granting disability pension with rounding off.

3. Heard the learned counsel for both the parties and perused the record.

4. Briefly stated the facts of the case are as such that the applicant was enrolled in the Army on 22.11.1980 and discharged from service on 30.11.2004 after rendering 24 years and 09 days service on completion of terms of engagement. At

the time of discharge, he was brought before the Release Medical Board in which his disability "**GOUTY ARTHRITIS**" was assessed @ 30% for life and considered

-2-

it as aggravated to by military service. But the administrative authority interfered in the matter and held his disability neither attributable to nor aggravated by military service. Therefore, the disability pension has been denied to him on account of un-necessary interference by the Pension Sanctioning Authority which is not permissible in terms of judgment of the Hon'ble Supreme Court given in **Civil Appeal No. 164 of 1993(arising out of SLP No. 4233 of 1992), Ex Sapper Mohinder Singh Vs Union of India and another decided on 15.01.1993.**

Nothing to the contrary has been referred to on behalf of the respondents.

5. In the result, this Original Application is allowed and the impugned order dated 06.03.2005 is set aside. The respondents are directed to process applicant's claim for disability element of disability pension in terms of the aforesaid judgement with effect from 01.12.2004 @ 50% as against 30% for life along with the benefit of rounding off in terms of judgement of Hon'ble Supreme Court rendered in the case of **Civil Appeal No. 418 of 2012 Union of India and others v. Ram Avtar** decided on 10.12.2014 and on verification of the facts, if he is found entitled to the same, release it together with arrears to the applicant as expeditiously as possible but not later than four months from the date of receipt of copy of this order by learned counsel /representative for the respondents. MA No 09 of 2020 is disposed of accordingly.

6. Since the applicant has come to the Court/Tribunal after a gap of about 16 years after his discharge from service, so the arrears are restricted to three years prior to the date of filing of this Original Application i.e. 25.02.2020.

7. No order as to costs.

(HCS Bisht)
MEMBER (A)
'dp'

(Mohammad Tahir)
MEMBER (J)

ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI

OA-27/2020

With MA-18/2020

Ex-Nk Dharani Gohain

..... Applicant

By legal practitioners for
Applicant.

Mr. AR Tahbildar

-Versus-

UOI & Others.

..... Respondents

By legal practitioner for
Respondents.

Mr. B Kumar

CORAM

HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

ORDER

30.05.2022

This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007, for condoning the short fall of pensionable service which comes to more than one year i.e. one year and 25 days.

Briefly stated the facts of this case are that the applicant was enrolled in the Army on 26.07.1973 and was discharged from service on 30.06.1987 that is after rendering 13 years, 11 months and 05 days of qualifying service at his own request on extreme compassionate grounds before fulfilling the terms and conditions of his service. The applicant made representations before the authority concerned and the same were rejected by them stating that you have not completed 15 years of qualifying service which is a mandatory requirement to earn service pension in

terms of Para 132 of Pension Regulations for the Army 1961 (Part-I). Hence, this Original Application.

Heard the learned counsel for the parties and perused the record.

Learned counsel for the applicant has submitted that the case of the applicant is squarely covered by the judgement of *Hon'ble Supreme Court rendered in the case of Union of India & Another vs. Surinder Singh Parmar, Civil Appeal No.9389 of 2014, decided on January 20, 2015 [2015] 3 SCC 404.*

Learned counsel for both the parties agreed that this matter is covered by the aforesaid judgement.

In view of the above, respondents are directed to decide the case of the applicant in accordance with the aforesaid judgement of *Hon'ble Supreme Court Surinder Singh Parmar (supra)* within a period of three months from the date of receipt of certified copy of this order by the learned counsel for the respondents/OIC Legal Cell.

Since the applicant has come to the Court/Tribunal after a gap of about 33 years after his discharge from service, so the arrears are restricted to three years prior to the date of filing of this Original Application i.e. 29.06.2020.

No order as to costs.

(HCS Bisht)
MEMBER (A)
'dp'

(Mohammad Tahir)
MEMBER (J)

ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI
OA-07/2021

Ex-Hony Nb Sub Khamkho Kam

..... **Applicant**
By legal practitioners for
Applicant.
Mr. A.R.Tahbildar

-Versus-

UOI & Others.

..... **Respondents**
By legal practitioner for
Respondents.
Mr. B.Kumar

CORAM

HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

ORDER

30.05.2022

This is an application under Section 14 of the Armed Forces Tribunal Act, 2007, praying for the grant of disability pension. The brief facts necessary for adjudication of this Original Application are as follows.

2 The applicant was enrolled in the Indian Army on 31.03.1990 in a fit medical condition. During the course of his service, he incurred the disability of “**Symptomatic Seizure**” and thus, was finally discharged from service on 31.03.2014 after rendering 24 years and 01 day of qualifying service. At the time of release, his disability was assessed @ 20% but nil for life by the Release Medical Board being held neither attributable to nor aggravated by military service.

3. Learned counsel for the applicant has submitted that the onset of this disease was during Jan 2012 which occurred after about 22 years of entering into military service. However, the disability pension claim of the applicant was rejected by the respondents on the ground of the said disability being neither attributable to, nor

aggravated by military service, thereby leading to the filing of the instant application for the requisite relief. He submits that his prayer is now covered by a series of decisions of the Hon'ble Supreme Court, including ***Dharamvir Singh Vs Union of India*** (2013) 7 SCC 316, ***Three Judge Bench decision*** in Civil Appeal 2337/2009 ***Union of India Vs Chander Pal*** decided on 18-09-2013, ***Union of India Vs Rajbir Singh*** (2015) 12 SCC 264, ***Union of India Vs Angad Singh Titaria*** (2015) 12 SCC 257, ***Union of India Vs Manjeet Singh*** (2015) 12 SCC 275, Civil Appeal 4409/2011 ***Ex Hav Mani Ram Bhaira Vs Union of India*** decided on 11-02-2016, Civil Appeal 1695/2016 ***Satwinder Singh Vs Union of India*** decided on 11-02-2016 and ***Ex GnrLaxmanramPoonia Vs Union of India*** (2017) 4 SCC 697. The Applicant further submits that his claim is also supported by the applicable rules.

4. On the other hand, the respondents have taken a stand that the disability has been declared neither attributable to, nor aggravated by military service by the Medical Board and hence the applicant is not entitled to disability pension since the opinion of the medical board, being an expert body, must be respected.

5. We have considered the rival stands/submissions of the learned counsel for both the parties in the light of the judgment of the Hon'ble Supreme Court rendered in ***Dharamvir Singh Vs Union of India (Supra)*** and the relevant rules. The relevant Paras 30, 32 and 33 of the aforesaid judgment are here as under :-

“Para 30...In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service...”

Para 32 ...In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service...

Para 33...As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions. "Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a causal connection with the service conditions..."

6. It is undisputedly proved that at the time the applicant entered into military service, this type of disease/disability did not exist. The disability accrued to him during the course of military service during Jan 2012 which occurred after about 22 years of entering into service. So by virtue of the principle laid down in **Dharamvir Singh's case (Supra)**, the said disability can be attributed/aggravated by military service.

7. Considering the law laid down by the Hon'ble Supreme Court and also the attending circumstances, the rejection of the claim of the applicant is set aside and the applicant is thus held entitled to disability pension from the next date of discharge i.e. 01.04.2014 @ 50% as against 20% for life after being rounded off as per judgment of the Hon'ble Supreme Court in **Civil Appeal No 418/2012 Union of India Vs Ram** on 10-12-2014 subject to verification and the arrears are directed to be released by the respondents within a period of three months from the receipt of a certified copy of this order by the counsel for the Respondents/OIC Legal Cell, failing which the arrears shall carry an interest @ 8% from the date of this order.

8. Since the applicant has come to this Tribunal after a lapse of more than 07 years from the date of discharge, so the arrears are liable to be restricted to three prior to the date of filing of this OA i.e. 02.11.2021.

9. It is made clear that in case the applicant is already in receipt of the service pension or service element for the same spell of service for which he is entitled, in that case he shall be entitled only to the disability element of disability pension.

10. No order as to costs.

(HCS Bisht)
MEMBER (A)
'dp'

(Mohammad Tahir)
MEMBER (J)

**ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI**

OA-13/2021

MA-10/21

Ex- Sep Jamkho Gam

..... **Applicant**

By legal practitioners for
Applicant.

Mr. A.R.Tahbildar

-Versus-

UOI & Others.

..... **Respondents**

By legal practitioner for
Respondents.

Ms. Dipanjali Bora

CORAM

HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

ORDER

30.05.2022

By means of the present application, the applicant prays for setting aside the impugned letter Annexure A-D whereby the authority concerned has rejected the claim of the applicant as regards service element of disability pension and the benefit of rounding off.

2. Brief facts of the case are that the applicant was re-enrolled in the Defence Security Corps (DSC) on 05.09.2006 and was discharged from service w.e.f. 28.02.2017 after completion of 10 years, 05 months and 26 days of service in the DSC. The applicant was due for further extension in service from 10 years to 13 years. However, due to Low Medical Category P2 (P) w.e.f. 14.08.2001, he was not granted further extension of service and discharged from service on 28.02.2017 after completion of 10 years, 05 months and 26 days of service. The

applicant was entitled to disability pension consisting of service element and disability element @ 50% as against 30% disability w.e.f 01.03.2017. However, the respondents have released only disability element of disability pension @ 30% only w.e.f. 01.03.2017, so the applicant may be granted service element of disability pension in addition to disability element.

3. Per contra, the case of the respondents in short is this that the applicant was on a fixed and contracted terms of engagement in DSC service, initially for a period of five years and extended for another five years on completion of his fixed 10 years terms of engagement in DSC, he was discharged from DSC service. He was neither invalided out of DSC service on medical grounds nor discharged on medical grounds. So, he is not entitled to any service element of disability pension. That the applicant is already in receipt of service pension for the service that he had rendered in the Army. In these circumstances, the applicant is only entitled to disability element and not the service element of disability pension.

4. We have heard learned counsel for the parties and perused the record.

5. The first question in this case is as to **“whether the applicant who was in receipt of army pension at the time of his re-enrolment in the DSC, is entitled to the disability pension in the DSC service also ?**

6. For this purpose, the relevant regulation 179 of the Pension Regulations for the Army, 1961 is pertinent to be mentioned which is as hereunder :-

“Disability at the time of retirement/discharge.

179 An individual retired/discharged on completion of tenure or on completion of service limits or on completion of terms of engagement or on attaining the age of 50 years (irrespective of their period of engagement), if found suffering from a disability attributable to or aggravated by military service and recorded by Service Medical Authorities, shall be deemed to have been invalided out of service and shall be granted disability pension

from the date of retirement, if the accepted degree of disability is 20 percent or more, and service element if the degree of disability is less than 20 percent. The service pension/service gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/service element, as the case may be.

(2) The disability element referred to in clause (1) above shall be assessed on the accepted degree of disablement at the time of retirement/discharge on the basis of the rank held on the date on which the wound/injury was sustained or in the case of disease on the date of first removal from duty on account of that disease”.

7. Now the question arises as to whether this very provision is applicable in the case of DSC personnel. For this purpose, **Regulation 266** of the above Regulation for the Army, 1961 is relevant which is quoted as under:-

General provision

“**266.** The grant of pensionary awards to personnel of the Defence Security Corps shall be governed by the same general rules as are applicable to combatants of the Army, except where they are inconsistent with the provisions of the regulations in this chapter”.

8. From the above, it is clear that Regulation 179 is fully applicable in the case of DSC service. There is no dispute that the applicant was discharged in Low Medical Category and that there is also no dispute that he was discharged from DSC service on completion of terms of engagement. He was discharged from the DSC service but due to being in Low Medical Category, he could not be granted further extension in the DSC service. So, he shall be deemed to have been invalided out of service because of being placed in Low Medical Category and the authority concerned has already granted him disability element of disability pension which further fortifies this view that he was in Low Medical Category at the time of discharge from DSC service. There is also no dispute that the applicant was at the time of his discharge suffering with disability @ 20%. So,

by virtue of Regulation 179 above, he is entitled to disability pension consisting of service element as well as disability element.

9. Regulation 280 of Pension Regulations for the Army related to DSC service personnel states that disability pension consists of two elements viz service element and disability pension. So, according to this Regulation also, he is entitled to service element of disability pension.

10. The mere fact that the applicant was in receipt of pension of the first spell of the Army service cannot be a ground to refuse him the disability pension for the second spell in the DSC service. Our views find support from the judgment of this Tribunal rendered in **OA No. 146 of 2010 titled as Parbu Ram Vs. U.O.I and others decided on 23.04.2010.**

11. The question now arises as to whether the applicant is entitled to the benefit of rounding off in this case by virtue of the judgment of the Hon'ble Supreme Court rendered in **Civil Appeal No. 418 of 2012 (Union of India and others vs. Ram Avtar) decided on 10.12.2014** and according to this judgment, the applicant is entitled to the benefit of rounding off. So, he is entitled to disability pension consisting of both service element as well as disability element @ 50% as against 30% for life.

12. The Original Application is, accordingly, allowed. The respondents are directed to calculate the arrears accordingly and to pay the same to the applicant within a period of three months from the date of receipt of a certified copy of this order by the learned counsel for the respondents/OIC, Legal Cell, failing which the arrears shall carry an interest @ 8% p.a. from the date of this order.

13. Since the applicant has come to this Tribunal after a lapse of more than three years of his discharge from service, so the arrears are restricted to three years prior to the filing of this petition i.e. 02.11.2021. MA No 10 of 2021 is disposed of accordingly.

14. No order as to costs.

(HCS Bisht)
MEMBER (A)
'dp'

(Mohammad Tahir)
MEMBER (J)

ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI

OA-41/2019

Ex-Sep Gin Khan Khup

..... **Applicant**
By legal practitioners for
Applicant.
Mr. AR Tahbildar

-Versus-

UOI & Others.

..... **Respondents**
By legal practitioner for
Respondents.
Ms Dipanjali Bora

CORAM

HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

ORDER

30.05.2022

This is an application under Section 14 of the Armed Forces Tribunal Act, 2007, praying for the grant of disability pension. The brief facts necessary for adjudication of this Original Application are as follows.

2. The applicant was re-enrolled in the Indian Army on 21.12.2006 in a fit medical condition. During the course of his service, he incurred the disability of "**Adenolymphoma Right Parotid**" and thus, was finally discharged from service on 31.12.2016 after rendering 10 years and 11 days of qualifying service. At the time of release, his disability was assessed @ 20% but nil for life by the Release Medical Board being held neither attributable to nor aggravated by military service.

3. The applicant's claim for disability pension was however, rejected by the respondents on the ground of the said disability being neither attributable to, nor aggravated by military service, thereby leading to the filing of the instant application for the requisite relief. The Applicant submits that his prayer is now covered by a series of decisions of the Hon'ble Supreme Court, including **Dharamvir Singh Vs Union of India**

(2013) 7 SCC 316, **Three Judge Bench decision** in Civil Appeal 2337/2009 **Union of India Vs Chander Pal** decided on 18-09-2013, **Union of India Vs Rajbir Singh** (2015) 12 SCC 264, **Union of India Vs Angad Singh Titaria** (2015) 12 SCC 257, **Union of India Vs Manjeet Singh** (2015) 12 SCC 275, Civil Appeal 4409/2011 **Ex Hav Mani Ram Bhaira Vs Union of India** decided on 11-02-2016, Civil Appeal 1695/2016 **Satwinder Singh Vs Union of India** decided on 11-02-2016 and **Ex GnrLaxmanramPoonia Vs Union of India** (2017) 4 SCC 697. The Applicant further submits that his claim is also supported by the applicable rules.

4. On the other hand, the respondents have taken a stand that the disability has been declared neither attributable to, nor aggravated by military service by the Medical Board and hence the applicant is not entitled to disability pension since the opinion of the medical board, being an expert body, must be respected.

5. We have considered the rival stands/submissions of the learned counsel for both the parties in the light of the judgment of the Hon'ble Supreme Court rendered in **Dharamvir Singh Vs Union of India (Supra)** and the relevant rules. The relevant Paras 30, 32 and 33 of the aforesaid judgment are here as under :-

“Para 30...In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service...”

Para 32 ...In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty

Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service...

Para 33...As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions. "Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a causal connection with the service conditions..."

6. It is undisputedly proved that at the time the applicant entered into military service, this type of disease/disability did not exist. The disability accrued to him during the course of military service. So by virtue of the principle laid down in **Dharamvir Singh's case (Supra)**, the said disability can be attributed/aggravated by military service.

7. Considering the law laid down by the Hon'ble Supreme Court and also the attending circumstances, the rejection of the claim of the applicant is set aside and the applicant is thus held entitled to disability pension from the next date of discharge i.e. 01.01.2017 @ 50% as against 20% for life after being rounded off as per judgment of the Hon'ble Supreme Court in **Civil Appeal No418/2012 Union of India Vs Ram Avtar** decided on 10-12-2014 subject to verification and the arrears are directed to be released by the respondents within a period of three months from the receipt of a certified copy of this order by the counsel for the Respondents/OIC Legal Cell, failing which the arrears shall carry an interest @ 8% from the date of this order.

8. No order as to costs.

(HCS Bisht)
MEMBER (A)
'dp'

(Mohammad Tahir)
MEMBER (J)

ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI

OA-37/2019

With MA- 26/2019

Ex-Nk Dipak Kr Barman

..... **Applicant**
By legal practitioners for
Applicant.
Mr. AR Tahbildar

-Versus-

UOI & Others.

..... **Respondents**
By legal practitioner for
Respondents.
Mr. B Kumar

CORAM

HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

ORDER

30.05.2022

This is an application under Section 14 of the Armed Forces Tribunal Act, 2007, praying for the grant of disability pension. The brief facts necessary for adjudication of this Original Application are as follows.

2 The applicant was enrolled in the Indian Army on 13.10.1989 in a fit medical condition. During the course of his service, he incurred the disability of **“Primary Hypertension 1-10”** and thus, was finally discharged from service on 31.10.2011 (A/N) after rendering 22 years and 09 days of qualifying service. At the time of release, his disability was assessed @ 30% for life by the Release Medical Board being held neither attributable to nor aggravated by military service.

3. The applicant’s claim for disability pension was however, was rejected by the respondents the ground of the said disability being neither attributable to, nor aggravated by military service, thereby leading to the filing of the instant application for the requisite relief. He submits that his prayer is now covered by a series of decisions

of the Hon'ble Supreme Court, including ***Dharamvir Singh Vs Union of India*** (2013) 7 SCC 316, ***Three Judge Bench decision*** in Civil Appeal 2337/2009 ***Union of India Vs Chander Pal*** decided on 18-09-2013, ***Union of India Vs Rajbir Singh*** (2015) 12 SCC 264, ***Union of India Vs Angad Singh Titaria*** (2015) 12 SCC 257, ***Union of India Vs Manjeet Singh*** (2015) 12 SCC 275, Civil Appeal 4409/2011 ***Ex Hav Mani Ram Bhaira Vs Union of India*** decided on 11-02-2016, Civil Appeal 1695/2016 ***Satwinder Singh Vs Union of India*** decided on 11-02-2016 and ***Ex GnrLaxmanramPoonia Vs Union of India*** (2017) 4 SCC 697. The Applicant further submits that his claim is also supported by the applicable rules.

4. On the other hand, the respondents have taken a stand that the disability has been declared neither attributable to, nor aggravated by military service by the Medical Board and hence the applicant is not entitled to disability pension since the opinion of the medical board, being an expert body, must be respected.

5. We have considered the rival stands/submissions of the learned counsel for both the parties in the light of the judgment of the Hon'ble Supreme Court rendered in ***Dharamvir Singh Vs Union of India (Supra)*** and the relevant rules. The relevant Paras 30, 32 and 33 of the aforesaid judgment are here as under :-

"Para 30...In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service..."

Para 32 ...In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical

Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service...

Para 33...As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions. "Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a causal connection with the service conditions..."

6. It is undisputedly proved that at the time the applicant entered into military service, this type of disease/disability did not exist. The disability accrued to him during the course of military service. So by virtue of the principle laid down in **Dharamvir Singh's case (Supra)**, the said disability can be attributed/aggravated by military service.

7. Considering the law laid down by the Hon'ble Supreme Court and also the attending circumstances, the rejection of the claim of the applicant is set aside and the applicant is thus held entitled to disability pension from the next date of discharge i.e. 01.11.2011 @ 50% as against 30% for life after being rounded off as per judgment of the Hon'ble Supreme Court in **Civil Appeal No 418/2012 Union of India Vs Ram** on 10-12-2014 subject to verification and the arrears are directed to be released by the respondents within a period of three months from the receipt of a certified copy of this order by the counsel for the Respondents/OIC Legal Cell, failing which the arrears shall carry an interest @ 8% from the date of this order.

8. Since the applicant has come to this Tribunal after a lapse of more than 08 years from the date of discharge, so the arrears are liable to be restricted to three prior to the date of filing of this OA i.e. 30.07.2019. MA No 26 of 2019 is disposed of accordingly.

9. It is made clear that in case the applicant is already in receipt of the service pension or service element for the same spell of service for which he is entitled, in that case he shall be entitled only to the disability element of disability pension.

10. No order as to costs.

(HCS Bisht)
MEMBER (A)
'dp'

(Mohammad Tahir)
MEMBER (J)

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA 11/2021

(MA-09/2021)

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)

Ex-Rect Hulang AK Roel Anal

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mr PK Garodia, CGC)

ORDER

Learned counsel for the applicant does not wish to file rejoinder. However, with the consent of learned counsel for both the parties, this matter is taken on board for final disposal today itself.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Invaliding Medical Board proceedings, the disability of the applicant was assessed as 20% (composite) for two years only, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 09 of 2021 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA-10 of 2021

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

Ex-Nk Lalzathang

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mr B Kumar, CGC)

ORDER

Heard the learned counsel for both the parties and perused the record.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Medical Board, the disability of the applicant was assessed as 6-10% (composite) for five years only, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA 34/2019

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)

Ex-Sep Lallian Chin

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mr B Kumar, CGC)

ORDER

Learned counsel for the applicant does not wish to file rejoinder. However, with the consent of learned counsel for both the parties, this matter is taken on board for final disposal today itself.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Invaliding Medical Board, the disability of the applicant was assessed as 11-14% (composite) for two years, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 32 of 2019 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA- 25/2020

(MA-17/2020)

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)

Ex-Sep Lookingstar Makri

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mr PJ Barman, CGC)

ORDER

Heard the learned counsel for both the parties and perused the record.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Medical Board, the disability of the applicant was assessed as 15-19% (composite) for two years only, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 17 of 2020 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 12 of 2020 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA 21/2020

(MA-13/20)

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)

Ex-Sep Khamkhan Khup

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mrs Dipanjali Bora, CGC)

ORDER

Heard the learned counsel for both the parties and perused the record.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Medical Board, the disability of the applicant was assessed as 20% (composite) for two years only, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 13 of 2020 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA-54/2019

(MA-36/19)

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)

Ex-Nk PS Angshung Anal

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mrs Dipanjali Bora, CGC)

ORDER

Heard the learned counsel for both the parties and perused the record.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Medical Board, the disability of the applicant was assessed as 80% (composite) for two years only, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 36 of 2019 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA-61/2019

(MA-40/19)

Monday, the 30th day of May 2022

CORAM:

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)

Ex-Hav Nule Daniel Anal

..... Applicant

(By Mr AR Tahbildar, Advocate)

Versus

Union of India and others

..... Respondents

(By Mr B Kumar, CGC)

ORDER

Heard the learned counsel for both the parties and perused the record.

Simple prayer of the learned counsel for the applicant is this that the applicant is still suffering with the same disease with greater degree thereof which he was suffering at the time of his invalidment from service. He has further submitted that since as per the Medical Board, the disability of the applicant was assessed as 20% (composite) for two years only, so the respondents may be directed to hold the Re-Survey Medical Board (for short RSMB) of the applicant.

In view of the above submission of the learned counsel for the applicant, the respondents are directed to hold the RSMB of the applicant within three months from the date of receipt of the copy of this order. If the applicant is found entitled to the disability element of disability pension, his case shall be processed further in accordance with law.

With the above direction, this matter is finally disposed of. However, it is made clear that if the applicant feels aggrieved by the administrative authorities, he shall be at liberty to come to this Tribunal again against the order(s) of the authority concerned. MA No 40 of 2019 is disposed of accordingly.

No order as to costs.

(HCS Bisht)
Member (A)

(Mohammad Tahir)
Member (J)

30.05.2022/dp/kk