

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><b><u>OA-22/2022</u></b> With MA-04/22</p> <p><b>Ex-Nk Adani Simon Mao</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mr. A.R.Tahbildar</b></p> <p style="text-align: center;"><b>-Versus-</b></p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents. <b>Mr. P Sharma</b></p> <p><b><u>CORAM:</u></b></p> <p><b>HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p><b><u>31.05.2022</u></b></p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">Issue Notice to the Respondents.</p> <p style="text-align: center;">Mr. P. Sharma, learned counsel for the respondents has accepted notice on behalf of all the respondents and prays for time to file reply</p> <p style="text-align: center;">Reply may be filed within four weeks and rejoinder, if any, may be filed within two weeks thereafter.</p> <p style="text-align: center;">List this matter on the date to be fixed by the Registrar.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><u>MA-05/2022</u> In OA-09/22</p> <p><b>Ex-Nk Prem Prakash Tiwari</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mr. A.R.Tahbildar</b></p> <p style="text-align: center;">-Versus-</p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents. <b>Mr. P Sharma</b></p> <p><u>CORAM:</u></p> <p><b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>31.05.2022</u></p> <p>Learned counsel for the applicant has submitted that in this case, the PPO has been issued but the Bank concerned is not releasing the amount and as such, the Bank authority should be added as party Respondent No.5 in OA 09/2022.</p> <p><u>MA 05/2022</u></p> <p>For the interest of justice, this MA is accordingly allowed and the amended memo is taken on record. Tribunal Officer/Registry is directed to make necessary endorsement in red ink on the first page of the Memo of the parties. Applicant's counsel is directed to make necessary amendment/addition in the name of the parties showing in the OA as respondent No.5 forthwith.</p> <p>After the amendment is made, notice be issued to the Respondent No.5 by registered post . Steps be taken within a week from today.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>mc</p>

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	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><u>OA-23/2022</u> With MA-06/22</p> <p><b>Smt SR Elsy Anal</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mr. A.R.Tahbildar</b></p> <p style="text-align: center;">-Versus-</p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents. <b>Mr. PJ Barman</b></p> <p><u>CORAM:</u></p> <p><b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>31.05.2022</u></p> <p>Admit.</p> <p>Issue Notice to the Respondents.</p> <p>Mr. PJ Barman, 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;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><b><u>OA-24/2022</u></b></p> <p><b>Ex-Sep Helkho Pau</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mr. A.R.Tahbildar</b></p> <p style="text-align: center;"><b>-Versus-</b></p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents. <b>Mrs. Dipanjali Bora</b></p> <p><b><u>CORAM:</u></b></p> <p><b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p><b><u>31.05.2020</u></b></p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">Issue Notice to the Respondents.</p> <p style="text-align: center;">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 style="text-align: center;">Reply may be filed within four weeks and rejoinder, if any, may be filed within two weeks thereafter.</p> <p style="text-align: center;">List this matter on the date to be fixed by the Registrar.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><u>OA-25/2022</u> With MA-07/22</p> <p><b>Smt Y Tejpati Devi</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mr. A.R.Tahbildar</b></p> <p style="text-align: center;">-Versus-</p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents. <b>Mr. PK Garodia</b></p> <p><u>CORAM:</u></p> <p><b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>31.05.2020</u></p> <p>Admit.</p> <p>Issue Notice to the Respondents.</p> <p>Mr. PK Garodia, 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;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: right;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><b><u>RA-01/2022</u></b> With MA-08/22</p> <p><b>Ex-AC Balwant Rai</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Col RK Rastogi (Retd)</b></p> <p style="text-align: center;"><b>-Versus-</b></p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents.</p> <p><b><u>CORAM:</u></b></p> <p><b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p><b><u>31.05.2022</u></b></p> <p>On the request of Mr. M. Pandit, learned counsel for the applicant, the matter is adjourned for the day.</p> <p>List the matter on the date to be fixed by the Registry.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: right;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p><i>dp/kk</i></p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><b><u>TA-01/2019</u></b> (AAO WP(C) 1358/2015)</p> <p><b>Ms Lily Begam Laskar</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mr. A Rashid</b> <b>Mr. A Mobaraque</b></p> <p style="text-align: center;"><b>-Versus-</b></p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents <b>Mr. B. Kumar</b></p> <p><b><u>CORAM</u></b> <b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p><b><u>31.05.2022</u></b></p> <p>None appears for the applicant even today also.</p> <p>As per the note of the Registry, notice was issued. There is no endorsement in the order sheet that the counsel for the applicant was also informed in light of the order dated 04.02.2020. Therefore, the counsel for the applicant be informed telephonically after collecting Mobile No. from the Bar Association or from Mr. B. Kumar, learned counsel for the respondent and endorsement to that effect be made on the margin of the order.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><b><u>OA-24/2018</u></b></p> <p><b>Ex-Sep Akhamton</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant. <b>Mrs Rita Devi</b> <b>Mr. A R Tahbildar</b></p> <p style="text-align: center;"><b>-Versus-</b></p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents <b>Mr. B. Kumar</b></p> <p><b><u>CORAM</u></b> <b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p><b><u>31.05.2022</u></b></p> <p>Mr. AR Tahbildar, learned counsel for the applicant wants to withdraw the application with liberty to file execution application in OA No- 36/2016. He has made an endorsement to that effect on the order sheet dated 02.11.2021. Prayer is allowed.</p> <p>In view of the above, case is disposed of as being withdrawn with liberty to file execution application in OA-36/2016.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>



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	<p style="text-align: center;"><b>ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</b></p> <p style="text-align: center;"><u>OA-27/2019</u></p> <p><b>Smt Tribeni Deori</b></p> <p style="text-align: right;">..... <b>Applicant</b> By legal practitioners for Applicant.</p> <p style="text-align: right;"><b>Mr. Zahangir Hussain (Legal Aid Counsel)</b> <b>Mr. Rupam Jyoti Sarma</b></p> <p style="text-align: center;">-Versus-</p> <p><b>UOI &amp; Others.</b></p> <p style="text-align: right;">..... <b>Respondents</b> By legal practitioner for Respondents <b>Mr. PK Garodia</b></p> <p><u><b>CORAM</b></u> <b>HON`BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)</b> <b>HON`BLE VICE ADMIRAL HCS BISHT, MEMBER (A)</b></p> <p style="text-align: center;"><u><b>ORDER</b></u></p> <p><u><b>31.05.2022</b></u></p> <p>On the request of the learned counsel for the applicant, the matter is adjourned for today.</p> <p>List the matter on the date to be fixed by the Registry.</p> <p style="text-align: center;"><b>(HCS Bisht)</b> <b>MEMBER (A)</b></p> <p style="text-align: center;"><b>(Mohammad Tahir)</b> <b>MEMBER (J)</b></p> <p>dp/kk</p>



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

**OA-49/2019**

**(MA-34/2019)**

**Monday, the 31<sup>st</sup> day of May 2022**

**CORAM:**

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

**HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)**

**Ex-Rect Khanzapao Mate Zou**

**..... 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 100% (composite) for one year 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 34 of 2019 is disposed of accordingly.

No order as to costs.

**(HCS Bisht)**  
**Member (A)**

**(Mohammad Tahir)**  
**Member (J)**

**31.05.2022/dp/kk**

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

**OA-08/2021**

(MA-08/2021)

**Monday, the 31<sup>st</sup> day of May 2022**

**CORAM:**

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

**HON'BLE VICE ADMIRALHCS BISHT, MEMBER (A)**

**Ex-Nk(TS) P Thangcha Gangte**

**..... Applicant**

(By Mr AR Tahbildar, Advocate)

**Versus**

**Union of India and others**

**..... Respondents**

(By Mr PK Garodia, 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 08 of 2021 is disposed of accordingly.

No order as to costs.

**(HCS Bisht)**  
**Member (A)**

**(Mohammad Tahir)**  
**Member (J)**

**31.05.2022/dp/kk**

ARMED FORCES TRIBUNAL  
REGIONAL BENCH, GUWAHATI

OA-19/2021

Ex-Hav Suresh Chandra Bora

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

-Versus-

UOI & Others.

..... **Respondents**  
By legal practitioner for  
Respondents  
**Mr. PJ Barman**

CORAM

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

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

ORDER

31.05.2022

1. 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.

2. 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.

3. The applicant was enrolled in the Indian Army on 25.01.2000 in a fit medical condition. During the course of his service, he incurred the disabilities of "**DM Type II (E-14.0) and "Dyslipidemia (E-78.0)"**" and thus, was finally discharged from service on 30.04.2018 after rendering 18years, 03 months and 07 days of qualifying service. At the time of release, his disabilities were assessed @ 20% and 1-5% respectively for life and composite assessment was made @ 20% for life by the Release Medical Board being held neither attributable to nor aggravated by military service.

4. 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

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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.

5. 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.

6. 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..."*

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..."

7. 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.

8. 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. 01.05.8 @ 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 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.

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9. Since the applicant has come to this Tribunal after a lapse of more than three after his discharge from service, so the arrears are liable to be restricted to three years prior to the date of filing of this Original Application i.e. 25.08.2021.

10. 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.

11 No order as to costs.

(HCS Bisht)  
MEMBER (A)  
'dp'

(Mohammad Tahir)  
MEMBER (J)

ARMED FORCES TRIBUNAL  
REGIONAL BENCH, GUWAHATI

OA-32/2019

Ex-Sub Mairembam Tomba Singh

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

-Versus-

UOI & Others.

..... **Respondents**  
By legal practitioner for  
Respondents  
**Mr. PK Garodia**

CORAM

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

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

ORDER

31.05.2022

At the very outset, learned counsel for the applicant has submitted that he will not claim any disability pension for the disease **(a) Gouty Arthritis (M-10.9) (c) Obesity With Hyperlipidaemia (E66.5)**. He has also made an endorsement to that effect on the margin of the application. Thus, he is claiming disability pension for the disease **“Primary Hypertension (1-10.9)”** percentage of is given @ 30% for life.

2. 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.
3. By this petition, the applicant has prayed for setting aside decision of administrative authority and has prayed for granting disability pension with rounding off.
4. Heard the learned counsel for both the parties and perused the record.
5. Briefly stated the facts of the case are as such that the applicant was enrolled in the Indian Army on 05.10.1974 and was discharged from service on 01.08.2004

after rendering 29 years, 09 months and 27 days. At the time of discharge he was brought before the Release Medical Board in which his disability "**Primary Hypertension (1-10.9)**" was assessed @ 30% for life aggravated by military. 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 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.

6. In the result, we dispose of this Original Application with a direction to the respondents to process applicant's claim for disability element of disability pension in terms of the aforesaid judgement with effect from 01.08.2004 @ 30% as against 50% 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**, 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. The impugned orders dated 05.03.2005 (Annexure C) and 03.10.2005 (Annexure E) are set aside. MA No 23 of 2019 is accordingly disposed of.

7. Since the applicant has come to the Court/Tribunal after a gap of about 15 years after his discharge from service, so the arrears are liable to be restricted to three years prior to the date of filing of this Original Application i.e. 16.07.2019.

8. No order as to costs.

(HCS Bisht)  
MEMBER (A)  
'dp'

(Mohammad Tahir)  
MEMBER (J)