

NOTICE

The following Case(s) will be listed for final hearing before the Hon'ble Virtual Bench tentatively scheduled to be held in 1st Week of Feb 2022 :-

- (a) OA-24/2016 - Shri Ashish Prasad Vs UOI & Others.
- (b) OA-03/2017 - Ex-Sep David Manga Vs UOI & Others.
- (c) OA-20/2017 - Sub/Clk(SD) Raghunath Das Viswakarma Vs UOI & Ors.
- (d) OA-18/2018 - Lnk Jongshi Ao Vs UOI & Others.
- (e) OA-22/2018 - Ex-Cpl Mohit Pantola Vs UOI & Others.
- (f) OA-40/2018 - LAC LD Singh Vs UOI & Others.
- (g) OA-26/2018 - Ex-Rect M Dinakanta Singh Vs UOI & Others.
- (h) OA-28/2018 - Ex-Sub Kamzathang Zou Vs UOI & Others.
- (j) OA-36/2018 - Shri Shiva Thapa Vs UOI & Others.
- (k) OA-38/2018 - Ex-Hav BD Daniel Anal.

It has been directed by the Hon'ble Members that projection and defence of above mentioned cases would be as per performa attached and no lenient approach will be accepted at the time of virtual hearing of these cases.

Further, it has also been directed that till resumption of physical hearing, the above procedures would be followed in all cases to be listed for hearing in all the subsequent sittings of the virtual bench.

Therefore, Ld Counsels of both the parties are requested to file their written argument as per specimen attached before the Registry of this Tribunal in hard and soft copy (in a pen drive) on or before **25 Jan 2022** so that the same can be placed before the Hon'ble Virtual Bench well in advance to avoid inconvenience of the Hon'ble Members at the time of Virtual Hearing of the case(s). Written Arguments filed after **25 Jan 2022** will not be placed before the Virtual Bench due to paucity of time and concerned Ld Counsels would be held responsible for the lapse.

BY ORDER

Manjri Rekha Swain

(MR Sharma)
Consultant (Registrar)

Dated : 17th Jan 22

SHRI ASHISH PRASAD Vs UOI & OTHERS

This application has been filed under Sec 14/xxx of the AFT Act 2008 by the applicant who is a retired On being discharged, he was in medical category The applicant is aggrieved by the fact that

- though he was assessed by the Release Medical Board to have certain disabilities, the RMB did not recommend his case for disability element on the grounds that these were NANA.
- The RMB assessed his disabilities at ---- % and therefore he has been denied disability pension./ not accorded sanction for Re Survey Medical Board
- though he was initially granted ---% of disability for --- years, subsequently the disability % was reduced and his disability pension was reduced / stopped completely
- that though the RMB had recommended ---- % of disability, the PCDA reduced it to ---- % and reduced the disability element/ completely stopped it with effect from.
- ..any other reason.....

Therefore the applicant ahs made the following prayers :-

- (a) Verbatim from the OA
- (b)
- (c)

Brief Facts of the Case

The brief facts of the case as per the applicant are that he was enrolled into the Army/ navy/ Air Force in ---- and was in sound physical health with no medical issues. Having served for ---- years at various places including HAA/ Fd/ ----/ ----/ areas, he superannuated/ sought premature retirement / invalidated / discharged being LMC and not having sheltered appointment on At the time of his discharge, the applicant was brought before a Release Medical Board on which recorded the following and was released in final medical category ----, COPE Code----

Ser	Disability	Since	Medical Cat	Disability %	Disability % for life	Composite disability %for life	Attributability/ Aggravation	Remarks

As per the applicant, the brief history of each disability is as under :-

- (a) Disability 1. The applicant first reported/ was assessed to suffer from ---- for the first time in --- while serving in He was initially place in medical Cat ---- for ---- months/ years. The Re categorisation Medical Board was held on ---- and the applicant was placed on Med Cat --- (Temp) for ---- years. The applicant continued in Temp med cat till ---- when in the Recategorisation Medical Board placed him in Med cat --- (Permt)... since then the applicant has been in medical cat ----, with COPE coding ----.

(b) Disability 2.

(c) Disability 3.

On being discharged, the applicant preferred an application for grant of disability pension(Annexure A- x). The application was turned down and was instructed to file an appeal. The applicant filed his first appeal vide Annexure - x which was rejected vide Annexure -x . The applicant then filed his second appeal vide Annexure -x and this too was rejected vide Annexure -x . hence this OA.

Arguments by the Counsel for the Applicant

Xxxx Some facts from the OA and others from the argument.

Yyyyy

The Counsel relied on the following judgements in support of his arguments.

- (a) Supreme Court Judgement in Nk xxxx Vs Uol, CA xxxx of yyyy, dated ddmmyy (Citation as applicable)
- (b) Guwahati High Court judgement in
- (c) AFT (PB) Order dated ----- in OA -----.

Arguments by the Counsel for the Respondents

Xxxx Some facts from the Counter Affidavit and others from the argument.

Yyyy

The Counsel relied on the following judgements in support of his arguments.

- (a) Supreme Court Judgement in Nk xxxx Vs Uol, CA xxxx of yyyy, dated ddmmyy (Citation as applicable)
- (b) Guwahati High Court judgement in
- (c) AFT (PB) Order dated ----- in OA -----.

Consideration of the Case

Xxx

Yyyy

In view of the above consideration we reject/ allow the OA and direct the following :-

(a)

(b)