

Form No. 4
{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI

Ex. Nk. NL Thomas Anal OA -26/2022 with MA 09/2022 Applicant
AR Tahbildar
Legal practitioner for Applicant
-Versus-
UOI & Others. Respondents
PK Garodia
Legal practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>CORAM</u></p> <p>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member(J) Hon'ble Air Mshl Balakrishnan Suresh, Member (A)</p> <p><u>ORDER</u></p> <p><u>03.04.2023</u></p> <p>Heard Shri A.R. Tahbildar, Ld. Counsel for the applicant and Shri P.K. Garodia, Ld. Counsel for the respondents.</p> <p>The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for issuing direction to the respondents to conduct Re-Survey Medical Board and to assess disability percentage of the invaliding disease "Prolapse LV Disc L-43/5 (OPTD)" and after re-assessment of the Re-Survey Medical Board if the percentage is found to be 20% or more res be directed to continue/grant disability element of pension along with rounding off benefits and arrears.</p> <p>Briefly stated facts of the case are that the applicant was enrolled in the Indian Army on 03.08.1969 and discharged from service on 12.07.1987 under Rule 13(3) Item III (v) of the Army Rules, 1954 after rendering 17 years. 11 months and 09 days of service. At the time of discharge from service the Release Medical Board held on 12.06.1987 assessed the applicant's disability "Prolapse LV Disc L-43/5 (OPTD)" @30% for two years as attributable to service. Accordingly, applicant was granted disability pension for two years. The respondents had requested the applicant to appear before the Re-Survey Medical Board for re-assessment of his disability vide letter dated 12.03.1988, but the applicant did not appear.</p> <p>Ld. Counsel for the respondents has opposed the prayer on the ground that after the lapse of more than 33 years, it will not be appropriate to hold RSMB of the applicant at this stage.</p> <p>Upon hearing submission of Ld. Counsel of both the</p>

parties and considering the facts and circumstances of the case, we dispose of the Original Application finally with the direction to the respondents to conduct Re-Survey Medical Board (RSMB) of the applicant to assess his disability for deciding entitlement of disability element of disability pension. Respondents are further directed to give effect to the order within four months from the date of receipt of a certified copy of this order.

Let copy of this order be provided to the learned Counsel for the parties.

(Air Mshl Balakrishnan Suresh)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)