

**IN THE ARMED FORCES TRIBUNAL**

**REGIONAL BENCH, GUWAHATI**

**OA- 36/2016.**

**PRESENT**

**HON`BLE MR. JUSTICE B.P.KATAKEY, MEMBER(J)**  
**HON`BLE VICE ADMIRAL MP MURALIDHARAN, MEMBER (A)**

No. Ex Sep Akhamton  
Son of Sampanthang ,Village  
Sagneng post Office, Moirang  
District Churachandpur,State of  
Manipur Pin 795128

..... **Applicant.**

**By legal practitioners for  
Applicant.**

Mr.Udayan Sarma

**-VERSUS-**

1. Union of India,  
Represented by the Secretary,  
Govt. of India, Ministry of Defence  
Sena Bhawan, New Delhi – 110011.
2. Office of the Chief Controller of Defence Accounts  
(Pensions)Allahabad.
3. Commanding Officer, Assam Regimental Centre  
Shillong C/O. 99 APO
4. Record Officer for Officer in charge ,Records,  
The Assam Regiment PIN (Army)900332.

..... **Respondents..**

**By Legal Practitioner for the  
Respondents**  
Mr.C.Baruah

Date of Hearing : 22.03.2017

Date of Order : 22.03.2017

**ORDER**

**( B.P.Katakey,J)**

The applicant, who was enrolled in the India Army on 24.12.1971 and was discharged from service on 29.6.1987 under Rule 13(3)III(v) of the Army Rules, had filed an application on 24.12.87 challenging the decision of PCDA(P) Allahabad by order dated 30.6.2016 issued by the Senior Record Officer for OIC Records, Assam Regiment whereby and whereunder the request of the applicant for grant of disability element of pension has been rejected. It appears from the pleading of the parties that the applicant who was suffering from disability (right kidney), before fulfilling the condition of enrolment, was offered shelter appointment which, however, the applicant declined and as such, he was discharged form service on 29.6.1987.

[2] The Release Medical Board in its proceedings dated 10.4.1987 had found the percentage of disablement at 20% for 2 years but the same was neither found to be attributable to nor aggravated by the military service. The PCDA (Pension) on 24.12.1987, therefore, has rejected the claim of the applicant for grant of disability element of pension, the disability being neither attributable to nor aggravated by military service. The applicant thereafter made a representation before the respondent authority which was rejected vide order dated 30.6.2016. The applicant, however, did not file any appeal within time as allowed by the PCDA (Pension) by its order dated 24.12.1987. The applicant, however, made a belated representation which has been rejected vide order dated 30.6.2016 on a different ground i.e. on the ground that his disability was assessed less than 20%,which,however,was not the

ground on which PCDA (Pension) rejected the claim of the applicant . The Government of India on 17.7.2016 has taken a policy decision to entertain appeal in respect of past claim provided such appeal is filed within the period of one year of the aforesaid date. Such relaxation has been given as one time measure.

[3] That being the position, we dispose of the OA allowing the applicant to prefer a first appeal before the appellate authority within a period of one month from today with a direction that in the event such appeal is filed, the first appellate authority shall decide the same by a speaking order within a period of 3 ( three) months from the date receipt of a copy of the same. The order that may be passed by the respondent authority shall immediately be communicated to the applicant so that he may approach before the appropriate forum ,if he still has any grievance.

[4] OA is accordingly disposed of. No costs.

[5] Order dasty.

**MEMBER(A)**

**MEMBER (J)**

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