

**IN THE ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI.**

OA- 54/2017.

PRESENT

**HON'BLE DR(MRS) JUSTICE INDIRA SHAH, MEMBER(J)
HON'BLE LT GEN GAUTAM MOORTHY, MEMBER(A)**

No.6364111 Ex Sep
Jamkho Thang,
Vill Sahomphal, PO Sugnu
Dist. Chandel, Manipur

..... **Applicant.**

**By legal practitioners for
Applicant.**

Mrs Rita Devi
Mr. A.R.Tahbildar

-VERSUS-

1. Union of India,
Represented by the Secretary,
Govt. of India, Ministry of Defence
Sena Bhawan, New Delhi – 110011.
2. ASC Records (South)
PIN 900493
C/O.56 APO.
3. Additional Directorate General
Personnel Services , PS -4(d)
Adjutant General's Branch
IHQ of MOD(Army),DHQ,PO New Delhi
4. Principal Controller of Defence Accounts (Pension)
Allahabad PIN 211014
Uttar Pradesh.

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

**By Legal Practitioner for the
Respondents**

Mr. N.Baruah, CGSC

Date of Hearing : 11.06.2018

Date of Order : 11.06.2018

ORDER

(Lt.Gen Gautam Moorthy)

Heard Mr.A.R.Tahbildar, learned counsel appearing for the applicant and Mr. N.Baruah, learned CGSC assisted by Cap. Akash Vashishta, OIC,AFT Legal, cell appearing for the respondents.

[2] Mr. A.R.Tahbildar, learned counsel for the applicant has prayed that the applicant was compelled to submit unwillingness certificate on 28.05.1992 that he was unwilling to appear before the Re-Survey Medical Board (RSMB) despite having reported to Military Hospital, Shillong at that point of time. This was due to the fact that there was civil unrest at his place of residence and his house was burnt down due to Naga-Kuki clashes and hence he had to rush back to his village.

[3] Be that as it may, the applicant is ready to submit himself to Re-Survey Medical Board at present.

[4] The learned counsel respondents has stated that the case of obtaining sanction of DGAFMS is being processed by the ASC Records and on receipt of sanction of DGAFMS,Re-Survey Medical Board will be conducted.

[5] There is no doubt that the applicant was invalided out of service on 24.09.1974 after putting only about 5 years of

service due to disease " OSGOOD SCHLATTER'S DISEASE RT KNEE" which was neither attributed to nor aggravated by military service.

[6] In view of catena of judgments, especially **(Sukhvinder Singh VS. Union of India and Ors reported in (2014) 14 SCC 364)**, any service-man invalided out on medical grounds before completing his terms of engagement cannot be denied disability pension. Hence, the applicant seems to be deserving of disability pension. Therefore, we direct that Re-Survey Medial Board be conducted in Military Hospital at MH (Leimakhong,Manipur) which is nearest to the residence of the applicant to confirm whether the applicant is still suffering from the disease at this point of time.

[7] The applicant is hereby directed to report MH (Leimakhong,Manipur) between 1st to 15th July,2018 for the same and the report of the Re-Survey Medical Board be submitted to this Bench by the respondents by 31st July,2018.

[8] List the case for order on 02.08.2018.

[9] Order dasti.

MEMBER(A)

MEMBER(J)

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