

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

OA-13/2022

Ex-SWR Sukumar Roy

.....Applicant

By legal practitioners for Applicant
Rupam Jyoti Sarma
Nisha Moni Borah

-Versus-

UOI & Ors

..... Respondents

By legal practitioner for Respondents
P K Garodia, CGSC
S Dutta
S Haque
H Das (Counsel for Resp No. 5)

CORAM:

**HON`BLE MR. JUSTICE UMESH CHANDRA SHARMA, MEMBER (J)
HON`BLE LT GEN C.P. MOHANTY, MEMBER (A)**

10.09.2026

ORDER

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-

- (i) *To pay disability element of disability pension to the applicant w.e.f. 01.12.1996 with arrears and interest @ 12%.*

- (ii) *To pay disability element of pension to the applicant @ 50% for life.*
- (iii) *To pay any other consequential relief/benefits as may be admissible as per Government rules, regulation and notification.*
- (iv) *To grant any other relief(s) and/or may pass any other order(s) as this Hon'ble Tribunal deems fit and proper.*

2. Briefly stated the facts are that, the applicant was enrolled as a Sepoy in the Indian Army on 27.06.1979 under 65 Armed Regiment. In 1990, while posted in Ahmed Nagar, Maharastra he fell sick and he had to be admitted to Army Hospital at Pune, Maharastra where he diagnosed with 'caries spine Dv12-Lv1' with bilateral foot-drop. The Medical Board proceeding placed him in low medical category w.e.f. 08.05.1991 and he was invalided out from service. On 31.03.1995, the applicant was discharged from service. At the time of discharge, the applicant had completed 15 years 9 months and 4 days of service and he was granted disability pension w.e.f. 01.04.1995 to 01.11.1996. However, the disability pension was stopped w.e.f. December 1996 without any information to the applicant. It is also submitted by the learned counsel for the applicant that in 1996, as directed, the applicant appeared before the Re-Survey Medical Board at 5 Air Force Hospital,

C/O 99 APO, but due to non-receipt of the required documents from the respondent No. 4, the applicant could not be examined by the RSMB and released him from the hospital. The applicant made a representation through the Cachar Ex-Servicemen Association, which was placed before the respondent No. 4 and RSMB of the applicant was held on 07.02.2006. The RSMB assessed the invalidating disability of the applicant at 50% and the respondent No. 4 had forwarded the PPO dated 19.06.2006 to the State Bank of India, Silchar, Cachar, Assam and directed them to make payment of disability element to the applicant @ 310/- w.e.f 07.02.2006 for the disability assessed @ 20% for life as accepted by PCDA(P). Thereafter, the applicant made another application dated 16.09.2006 with a prayer for payment of disability element for the interim period w.e.f. 09.12.1996 to 06.02.2006 which was rejected by the respondents vide letter dated 05.10.2006. The applicant has stated that despite continuous communication, assurance and confirmation given by the respondent authorities, neither he has received the disability element of pension nor he has been given the benefit or interest. Hence the applicant has preferred the instant OA.

Submission on behalf of the applicant

3. Mr Rupam Jyoti Sarma, learned counsel for the applicant has submitted that the applicant was enrolled as a Sepoy in the Indian Army on 27.06.1979. While serving the Indian Army, the applicant was diagnosed with caries spine Dv12-Lv1 with bilateral foot-drop. Accordingly the medical board placed him in low medical category CEE(T) w.e.f. 08.05.1991 and invalidated him out of service. On being invalidated out from service, the applicant was granted disability pension w.e.f. 01.04.1995 to 01.11.1996, but the same had been stopped and discontinued since Dec 1996 without any information to the applicant. Thereafter the RSMB assessed the invaliding disability of the applicant @50% vide letter dated 06.07.2006 and respondent No. 4 directed the State Bank of India, Schar, Cachar, Assam to make payment of disability element of pension to the applicant. It is further submitted by the learned counsel for the applicant that since December 1996 till filing of this case, the applicant had not received a single penny against the disability element of pension. The applicant had made several representations before the concerned authorities seeking disability pension, but his grievance were left unattended. Hence this application.

Submissions on behalf of the respondents

4. *Per contra*, Mr. PK Garodia, learned CGSC appearing for the respondents has submitted that the applicant was discharged from service on 31.03.1995 under Rule 13(3) Item III(v) of Army Rule 1954 r/w Sub Clause 2(A) in low medical category. The applicant was brought before RMB at Military Hospital, Babina on 09 Dec 1994 wherein his disability viz (CARIES SPINE D12 LV1(015)' was regarded attributable to Military Service and assessed @20% for two years and he was granted disability element @ Rs. 225/- per month w.e.f. 01.04.1995 to 08.12.1996. The RSMB in respect of the applicant was due on 09 Dec 1996 and the applicant had submitted the required detailed for conducting RSMB, but he did not report to 05 Air Forces Hospital for RSMB. After 05 years, the applicant approached Armoured Corps Records with a request to conduct RSMB, but he did not submit the requisite documents in time as advised by the authority. Thereafter, after elapse of 03 years and 06 months, the applicant again approached the Armoured Corps Records for conducting RSMB through Cachar Ex-Servicemen Association, Cachar, Assam. The RSMB was held on 07 Feb 2006 and assessed the disability of the applicant @20% for life. Accordingly the applicant has been granted disability element @ Rs 310/- per month w.e.f. 7 Feb 2006 for life. It is

submitted that the applicant had approached Armoured Corps Records vide his application dated 16 Sep 2006 for grant of disability element for the intervening period w.e.f. 09 Dec 1996 to 06 Feb 2006 through Cachar Ex-Servicemen Association, Cachar, Assam. It is also submitted that the applicant's RSMB was due on 09 Dec 1996, but he did not appear before the RSMB in spite of issuing repeated reminders till 2006. The RSMB was held on 07 Feb 2006 and assessed the disability of the applicant @20% for life and disability element of pension was granted to him. Hence no action could be taken for grant of disability element for the intervening period.

Consideration

5. We have heard Mr Rupam Jyoti Sarma, learned counsel for the applicant and Mr.PK Garodia, learned CGSC appearing for the respondents, perused the record and considered the rival submissions.

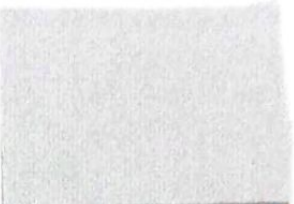
6. From perusal of the record it reveals that the applicant was diagnosed with caries spine Dv12-Lv1 with bilateral foot-drop and the Release Medical Board assessed his disability @ 20% for two years and attributable to Military Service. On being invalidated out from service, the applicant was granted disability pension w.e.f. 01.04.1995

to 01.11.1996, thereafter the same was discontinued since Dec 1996 without any information to the applicant. Since December 1996 till filing of this case, the applicant had not received a single penny against the disability element of pension. The applicant had made several representations before the concerned authorities seeking disability pension, but his grievances were left unattended. The Zila Sainik Welfare Office, Cachar issued a certificate dated 01.12.2005 (Annexure-M) that there is no record found/held in this office to prove that Armoured Corps Records Office letters dated 14.10.1997 and 07.12.2001 pertaining to No. 1062879L Ex. SOW Sukumar Roy were received and handed over to the Ex-Serviceman. Therefore, there is plausible explanation available to the applicant for not appearing for RSMB. Therefore, the applicant cannot be held defaulter for his non appearance. The RSMB was held on 07 Feb 2006 and assessed the disability of the applicant @20% for life and disability element of pension was granted to him. Therefore the applicant is also entitled to disability element of pension for the intervening period from 01.12.1996 to 06.02.2006 @ 20 % rounded off to 50%.

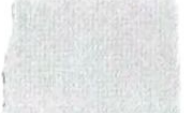
7. Accordingly, the Original Application is allowed and the respondents are directed to issue corrigendum PPO to the applicant

within three months from the date of receipt of certified copy of this order by learned counsel for the respondents/ OIC, Legal Cell. Arrears be also paid within the said period, failing which they shall become payable with interest @ 6 % per annum.

8. There shall be no order as to costs.



(UMESH CHANDRA SHARMA)
MEMBER (J)



(LT GEN C.P. MOHANTY)
MEMBER (A)

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