

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
O.A. No. 144 of 2023 (SI No 31)

Ex Ha Sanni Raj

Applicant

By Legal Practitioner for the Applicant: Shri KK Singh Bisht, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents: Shri Shyam Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>09.05.2024</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Lt Gen Anil Puri, Member (A)</u></p> <p>1 Rejoinder affidavit filed by the applicant is taken on record.</p> <p>2. Briefly stated facts of the case are that applicant was enrolled in the Army on 27.02.1996 and discharged from service on 28.02.2022 in Low Medical Category. His claim for grant of disability element was rejected on the ground that in Release Medical Board (RMB), disability was assessed as 'Nil for life'. Applicant has filed this Original Applicant with the prayer to direct the respondents to conduct a fresh RSMB to assess his medical condition for grant of disability pension.</p> <p>3. Learned counsel for the applicant submitted that the applicant was enrolled in Army on 27.02.1996 and discharged from service on 28.02.2022 after rendering 26 years of service under clause 13 (3) III (i) of Rule 1954 on completion of terms of engagement. Release Medical Board of the applicant was held at the time of retirement at Mil Hospital Bhopal on 15.11.2021 and his disabilities (i) Spontaneous CSF Rhinorrhea (Left Optd) and (ii) Partial Empty Sella Syndrome were assessed as Nil for life and considered as neither attributable to nor aggravated by Military service.. His claim for grant of disability element was rejected vide order 05.03.2022. His first appeal was also rejected vide letter dated 29.08.2022. Learned counsel for the applicant pleaded that applicant suffered disabilities in Sep 2020 after 24 years</p>

of service hence disabilities are attributable to and aggravated by military service. He prayed that directions be given to respondents to conduct a Resurvey Medical Board of the applicant in order to assess the degree of disablement and if he is found disable, disability element be granted to him.

4. On the other hand, learned counsel for the respondents submitted that on retirement, the applicant has been granted service pension for the services rendered in the Army. Release Medical Board has mentioned that Medical Board that exact cause of the disease is not known. and disability percentage of the applicant is Nil for life. The applicant is not entitled for grant of disability element in terms of para 53 (a) Pension Regulations for the Army Part -I (2008), as the disabilities as recorded in RMB have been found to be neither attributable to nor aggravated by military service and net assessment qualifying for disability pension @ 'Nil for life'. hence, the applicant is not entitled for disability element and instant O.A. has no substance and is liable to be dismissed.

5. We have heard Shri KK Singh Bisht, learned counsel for the applicant and Shri Shyam Singh, learned counsel for the respondents and perused the documents available on record.

6. On perusal of Medical Board Proceeding, it appears that disabilities of the applicant first started in Sep 2020 and applicant was placed in Low Medical Category S1H1A1P2E1 (P) in Oct 2021. RMB was held on 25.10.2021 and applicant was discharged from service on 28.02.2022 after rendering 26 years and 02 days of service. On retirement, the applicant has been granted service pension vide PPO date 25.02.2022. RMB assessed disability of the applicant as 'Nil for life' and disabilities have been considered as neither attributable to nor aggravated by military service. In detailed justification column of RMB report it has been mentioned that **'Bothe disabilities are idiopathic (exact**

cause not known/congenital). No h/o infection/ trauma/ surgery and cause factors related to service found. The disabilities are neither attributable nor aggravated by service as per latest medical literature'.

Medical Board has not given percentage of disability pension to the applicant.

In absence of disability percentage in RMB report, entitlement of disability pension to the applicant cannot be considered.

7. In view of the facts and circumstances of the case, respondents are directed to inform a suitable date to the applicant within two months for conduct of a fresh Resurvey Medical Board in order to assess his degree of disablement. On receipt of date, applicant shall appear before the respondents on the date and place fixed by the respondents for conduct of Resurvey Medical Board. On completion of Resurvey Medical Board a copy of the Resurvey Medical Board shall be provided to the applicant.

8. Copy of this order be provided to learned counsel for the respondents for necessary action.

9.. With the aforesaid directions, O.A. stands **disposed of**.

(Lt Gen Anil Puri)
Member(A)

Ukt/-

(Justice Anil Kumar)
Member (J)